

PROCEEDINGS OF THE BROWN COUNTY BOARD OF SUPERVISORS
DECEMBER 17, 2008

Pursuant to Section 19.84 and 59.14, Wis. Stats., notice is hereby given to the public that the REGULAR meeting of the **BROWN COUNTY BOARD OF SUPERVISORS** was held on **Wednesday, December 17, 2008, at 7:00 p.m.**, in the Legislative Room 203, 100 North Jefferson Street, Green Bay, Wisconsin.

The following matters will be considered:

Call to order at 7:05 p.m.

Invocation.

Pledge of Allegiance to the Flag.

Present: Warpinski, De Wane, Nicholson, Theisen, Krueger, Haefs, Erickson, Brunette, Zima, Evans, Johnson, Vander Leest, Dantine, La Violette, Kaster, Knier, Williams, Fleck, Clancy, Wetzel, Langan, Scray, Lund, Fewell

Excused: Andrews, Hoeft.

Total Present: 24 Total Excused: 2

No. 1 -- Adoption of Agenda.

A motion was made by Supervisor Warpinski and seconded by Supervisor Dantine **“to adopt the agenda”**.

A motion made by Supervisor Erickson and seconded by Supervisor Nicholson **“to remove item #10e (An Ordinance to amend Chapter 21 of the Brown County Code entitled “Subdivisions”).”** Voice vote taken. Motion carried unanimously with no abstentions.

No. 2 -- APPROVAL OF MINUTES OF COUNTY BOARD OF NOVEMBER 10, 2008

A motion was made by Supervisor Krueger and seconded by Supervisor La Violette **“to approve.”** Motion carried unanimously with no abstentions.

No. 3 -- ANNOUNCEMENTS BY SUPERVISORS.

Supervisor Erickson wished everyone a Merry Christmas and thanked all those who participated in the Salvation Army Food Drive. Supervisor Erickson added he will still accept food as well as cash donations that will be applied to the drive.

Supervisor De Wane thanked Supervisor Scray for including his son in the opening prayer. Supervisor De Wane’s son was involved in a bad accident and is recovering.

Supervisor Fewell announced that Supervisor Evans was featured as one of the “40 people under 40 you should know” in a local magazine. Congratulations!!

Supervisor Knier announced that she is taking a delegation of 10 students to Washington D.C. for the

Presidential inauguration. Supervisor Knier stated that the expenses are high so if anyone would like to make a donation, it would be greatly appreciated.

No. 4 -- COMMUNICATIONS. NONE. LATE COMMUNICATIONS:

No. 4a -- FROM SUPERVISOR SCRAY REGARDING: HAVE THE DRUG TASK FORCE SUBMIT A REPORT ON HOW MANY HOURS/TIME THEY SPEND IN THE CITY OF GREEN BAY VS. OTHER MUNICIPALITIES. THIS COULD BE ONGOING AND POSSIBLY A QUARTERLY REPORT.

Refer to Public Safety Committee.

No. 5b -- FROM SUPERVISOR SCRAY REGARDING: GIVEN CURRENT ECONOMIC CONDITIONS, AND SOME DIRE PREDICTIONS BY NOTED ECONOMISTS, BROWN COUNTY SHOULD DEVELOP EMERGENCY FISCAL PLANS REFLECTING POSSIBLE DECLINES OF UP TO A 30% LOSS IN ANNUAL REVENUE. DUE DATE FOR THE END OF APRIL, OF THIS YEAR.

- Refer to Administration Committee.

No. 6 -- APPOINTMENTS BY COUNTY EXECUTIVE.

No. 6a -- APPOINTMENT OF SCOTT KING TO HANDICAPPED CHILDREN'S EDUCATION BOARD.

- A motion was made by Supervisor Fleck and seconded by Supervisor Clancy **“to approve the above appointment”**. Voice vote taken. Motion carried unanimously with no abstentions.

No. 6b -- APPOINTMENT OF DAWN DELVAUX-GOODMAN TO SOLID WASTE MANAGEMENT BOARD

A motion was made by Supervisor Dantinne and seconded by Supervisor Erickson **“to approve the above appointment”**. Voice vote taken. Motion carried unanimously with no abstentions.

No. 6a -- REPORT BY COUNTY EXECUTIVE.

- County Executive Hinz wished everyone a Merry Christmas.

Executive Hinz announced that the UW-Stevens Point is holding a Climate Change Summit and more information will follow.

Mr. Hinz stated that Brown County has applied for a \$50,000 Grant for an Energy Audit. Executive Hinz says that an Energy Oversight Committee has been started to oversee energy and has been divided into subcommittees. He told the County Board he would continue to keep them informed.

County Executive Hinz announced that 2 correction officers are being deployed; Curt Hansen, WI Army National Guard will leave on January 9, 2009 and Beau Charney also with the WI Army National Guard will leave January 9, 2009. He wishes them well and a safe return.

Executive Hinz received a letter from the Brown County Golf Course Men's Club commending Scott Anthes, Brown County Golf Course Superintendent, for doing a great job at the Brown County Golf Course.

No. 6b -- REPORT BY BOARD CHAIRMAN.

Chairman Zima reminded Board Members of County Executive Veto coming up. District Attorney, John Zakowski sent a letter to Chairman Zima requesting to make it a requirement that all payments in the VIP Program be made. Chair Zima explained the VIP Program and encouraged the Board Members to override the Executive's veto.

No. 7 -- OTHER REPORTS. None.

No. 8 -- VETO SESSION.

a) FROM NOVEMBER 10, 2008 COUNTY BOARD MEETING, #12F -- PUBLIC SAFETY COMMITTEE (BUDGET ITEMS) MEETING OF OCTOBER 27, 2008: ITEM #3A -- AMENDMENT BY THE COUNTY BOARD ON NOVEMBER 10, 2008 "TO ADD \$30,000 TO THE VIP PROGRAM."

A motion was made by Supervisor Haefs and seconded by Supervisor Langan **"to override the County Executive's Veto of the VIP Program"**. 2/3 vote required.

A motion was made by Supervisor Lund and seconded by Supervisor Knier **"to suspend the rules to allow interested parties to address the Board"**. Voice vote taken. Motion carried unanimously with no abstentions.

Tom Martin, Executive Director of Family Services, explained the VIP Program started with 30 cases and is growing. The cost to operate program is \$76,000. Mr. Martin said he is in favor of continuing the VIP Program, mentioning the many merits of the program.

Several Supervisors asked questions of Mr. Martin regarding the VIP Program.

A motion was made by Supervisor Haefs and seconded by Supervisor Erickson **"to return to the regular order of business"**. Voice vote taken. Motion carried unanimously with no abstentions.

Discussion followed with County Executive Hinz explaining why he vetoed the VIP Program. County Executive Hinz prefaced his remarks by saying he is not being disrespectful of Family Services Executive Director Tom Martin simply because they differ, but gave history that he feels the target and goals have not been met; he does not see merits of program. Executive Hinz doesn't feel the program should continue because, as he stated, the end results and goals have not been met.

After further discussion, a vote was taken on the original motion by Supervisor Haefs **"to override the County Executive's Veto of the VIP Program"**. Vote taken. 2/3 vote of entire 26 member County Board (18 votes minimum) required. Roll Call #8(1):

Ayes: Warpinski, De Wane, Theisen, Krueger, Haefs, Erickson, Brunette, Zima, Evans, Dantine, La Violette, Fleck, Clancy, Wetzell, Langan, Lund, Fewell

Nays: Nicholson, Vander Leest, Johnson, Kaster, Knier, Williams, Scray

Excused: Andrews, Hoeft

Total Ayes: 17 Total Nays: 7 Excused: 2

Motion defeated.

No. 9 -- STANDING COMMITTEE REPORTS

No. 9a -- REPORT OF ADMINISTRATION COMMITTEE OF NOVEMBER 13, 2008

TO THE MEMBERS OF THE BROWN COUNTY
BOARD OF SUPERVISORS

Ladies and Gentlemen:

The ADMINISTRATION COMMITTEE met in regular session on November 13, 2008, and recommends the following motions:

1. Review minutes of: (None)
2. Communication from Supervisor Johnson re: Request to review the bidding and award process in new construction projects. (Held from previous meeting.) Hold until January meeting.
3. Communication from Supervisor Julie Knier re: Disallowance of claim resolutions, shall provide information on the circumstances of the claim. (From previous meeting.) Hold until January meeting.
4. Treasurer - Report on history of extra help employees (from previous meeting). Receive & place on file.
5. Treasurer - Write off of 2006 outstanding checks. Approve.
6. Treasurer - Budget Status Financial Report for September, 2008. Approve.
7. Dept. of Administration - Update on Administration compensation. Receive & place on file.
8. Dept. of Administration - Discussion on grant application process. Receive & place on file.
9. Dept. of Administration - Report on Financial System Project. Receive & place on file.
10. Dept. of Administration - Budget Status Financial Report for
 - a) Dept of Administration, September 30, 2008.
 - b) Information Services, September 30, 2008.Receive & place on file items 10a & b.
11. Dept. of Administration - 2007 Budget Transfer Log. Approve.
12. Dept. of Administration - Asset Maintenance Fund Expenditures:
 - a) Remove existing water based fire suppression system and replace it with a gaseous based system (for IS Server Room) \$34,451. Approve.
 - b) Pay Green Bay City Treasurer half of the total costs to purchase serial cards for Council Chambers (\$273.08). Approve.
13. Human Resources - Budget Status Financial Report for September 30, 2008. Receive & place on file.
14. Human Resources - Monthly Committee Report for October, 2008. Receive & place on file.
- #14a Resolution re: Section 403(B) Tax Deferred Annuity Plan. Committee approved. See Resolutions, December County Board.
15. Audit of bills. Approve payment of bills.
16. Facility Management, County Clerk, Corporation Counsel - Budget Status Financial Reports for September 30, 2008.

A motion was made by Supervisor Warpinski and seconded by Supervisor Krueger **“to adopt”**. Voice vote taken. Motion carried unanimously with no abstentions.

Approved by: _____ \s\ _____ Tom Hinz, County Executive

Date: 12/22/2008

No. 9b -- REPORT OF EDUCATION & RECREATION COMMITTEE OF DECEMBER 4, 2008

TO THE MEMBERS OF THE BROWN COUNTY
BOARD OF SUPERVISORS

Ladies and Gentlemen:

The EDUCATION & RECREATION COMMITTEE met in regular session on December 4, 2008 and recommends the following:

1. Review minutes of:
 - a) Library Board (9/19/08 & 10/16/08). Receive & place on file.
2. Arena/Expo Centre - Event Attendance (October 2008). Receive & place on file.
3. Golf Course - Budget Financial Status Report for October 31, 2008. Receive & place on file.
4. Golf Course - Report Financial Statistics as of November 16, 2008. Receive & place on file.
5. Golf Course - Discussion and approval of six forward tees at Golf Course, Hole Nos. 2, 4, 6, 10, 14 & 18. Approve.
6. Golf Course - Superintendent's report. Receive & place on file.
7. Library - Budget Status Financial Report for October 31, 2008. Receive & place on file.
8. Library - Director's report. Receive & place on file.
9. Museum - Attendance & Admissions September & October 2008. Receive & place on file.
10. Museum - Budget Status Financial Report for September 30, 2008 & October 31, 2008. Receive & place on file.
11. NEW Zoo - Request for Budget Transfer (#08-75): Increase in Expenditures with Offsetting Increase in Revenue: Restricted donation received from Red Lewis in the amount of \$15,000 to be used toward the alligator exhibit/animal acquisition. Approve.
12. NEW Zoo - Request for Budget Transfer (#08-79): Increase in Expenditures with Offsetting Increase in Revenue: Increase in special event expense line by \$1,200 for the purpose of an ongoing NEW Zoo billboard on Highway 41 northbound. Approve.
13. NEW Zoo - Budget Status Financial Report not available. Request that Treasurer, Kerry Blaney attend the January meeting of this committee (1/8/09) to discuss accounting errors at the NEW Zoo.
14. NEW Zoo Monthly Activity Report.
 - a. Animal Collection Report. Receive & place on file.
 - b. NEW Zoo Admissions Revenue Attendance 2008 Report. Receive & place on file.
15. NEW Zoo Education & Volunteer Programs Report (November 2008) & Zoo Boo 2008. Receive & place on file.
16. NEW Zoo Gift Shop Concessions & Admissions Revenue October 2008. Receive & place on file.
17. NEW Zoo - Gift Shop Concessions Revenue 2008 Report. Receive & place on file.
18. Parks - Discussion of future campground at Brown County Fairgrounds. (Standing item for updates.) That dialog continue with the City of De Pere relative to a commitment to expand the Brown County Campgrounds, along with a request that staff review the Master Plan and report back to committee by March 2009.

19. Parks - Request for Budget Transfer (#08-83): Increase in Expenditures with Offsetting Increase in Revenue: Increase in Rails to Trails Donations (\$92,060) and Other State Grants (\$20,000) for extending the paved portion of the Fox River Trail (approximately two miles). Approve.
20. Parks - Request for Budget Transfer (#08-87): Increase in Expenditures with Offsetting Increase in Revenue: Increase Boat Landing Outlay Other with an offsetting Increase in Fund Balance applied of \$20,000 for renovation of Suamico Boat Landing launching ramps. Approve.
21. Parks - Request for Budget Transfer (#08-86): Increase in Expenditures with Offsetting Increase in Revenue: Accept money from State of Wisconsin for Supplementary Maintenance Payments for State Funded Snowmobile Trail System. These monies will be dispersed to snowmobile clubs for performing additional work due to high snow conditions during 2007-2008 snowmobile season (\$19,232.78). Approve.
22. Parks - Approval of low bid (see attached) for Suamico Boat Landing launch ramp renovation. Approve the low bid of United Construction in the amount of \$47,108.32 for the Suamico Boat Landing launch ramp renovation. Ayes: 4 (Brunette, Warpinski, Wetzels, Vander Leest); Nays: 1 (Johnson). Motion Carried.
23. Parks - Approval of low bid (see attached) for Resch Center glass wall project. Approve the bid of Barron Enterprises in the amount of \$32,400.
24. Parks - Discussion of easement request by Green Bay Metropolitan Sewage District for a force main sewer across Brown County Fairgrounds property. Refer to staff and bring back for consideration at the January meeting of this committee and then on to the County Board for approval.
25. Parks - Approval of 2010 Park rates and fees. Approve.
26. Parks - Budget Status Financial Report for October 31, 2008. Receive & place on file.
27. Parks - Facility & Park Management - Director's report. Receive & place on file.
28. Discussion of January's meeting date (falls on Thursday, January 1, 2009). (Next meeting – Thursday, January 8, 2009 in Room 200.)
29. Audit of bills. Approve audit of bills.

A motion was made by Supervisor Fleck and seconded by Supervisor Brunette “to adopt”. Voice vote taken. Motion carried unanimously with no abstentions.

Approved by: _____ \s\ Tom Hinz, County Executive

Date: 12/22/2008

ATTACHMENT TO ITEM #22

BID TABULATION RECORD				
PROJECT NAME: Suamico Boat Landing Repairs				
PROJECT #1336				
DUE DATE & TIME: 11/19/08 AT 11:00 A.M.				
OPENING DATE & TIME: 11/19/08 AT 11:00 A.M.				
CONTRACTOR	LUMP SUM TOTAL COST	UNIT PRICE TOTAL COST	TOTAL COST -LUMP SUM PLUS UNIT PRICE	ADDENDUM 1
McMullen & Pitz Construction	\$ 75,700.00	\$ 7,500.00	\$ 83,200.00	Yes
Stone Creek Contractors (SCC)	\$ 72,101.58	\$ 3,300.00	\$ 75,401.58	Yes
United Construction	\$ 36,671.32	\$10,437.00	\$ 47,108.32	Yes
Advance Construction	\$ 177,770.00	\$ 5,325.00	\$183,025.00	Yes
Janke General Contractors	\$ 89,999.99	\$ 4,200.00	\$ 94,199.99	Yes

ATTACHMENT TO ITEM #23

BID TABULATION RECORD				
PROJECT NAME: GLASS WALL INSTALLATION AT RESCH CENTER				
PROJECT #1345				
DUE DATE & TIME: 12/1/08 AT 11:00 A.M. TO COUNTY CLERK				

OPENING DATE & TIME: 12/1/08 AT 11:00 A.M. - ROOM 200			
CONTRACTOR	TOTAL COST	ADDENDUM 1	NOTES
HJ Martin	\$ 28,245.00	No	Disqualified incomplete Bid
Barron Enterprises	\$ 32,400.00	Yes	Selected Lowest Qualified Bidder
Corcoran Glass & Paint	\$ 25,610.00	Yes	Disqualified incomplete Bid
Milbach Construction	\$ 41,300.00	Yes	

No. 9c -- REPORT OF EXECUTIVE COMMITTEE OF DECEMBER 8, 2008

TO THE MEMBERS OF THE BROWN COUNTY
BOARD OF SUPERVISORS

Ladies and Gentlemen:

The EXECUTIVE COMMITTEE met in regular session on December 8, 2008 and recommends the following motions:

1. Communication from Supervisor Julie Knier re: Establish reorganization of “non-divisional” offices as a top priority in the “review of the organizational structures and staffing needs” as identified in Executive Budget Message of 2009 proposed annual budget. (Referred from November County Board.) Hold for one month.
2. Communication re: Consideration of possible closing of County offices on December 26, 2008. (Requested by Supervisor Mary Scray.) Refer to Human Resources for a study and report back.
3. Approval of Grant Application Request from WI Office of Energy Independence. Approve.
4. Review of legal bills.
 - a. Refer this to our Internal Auditor the original bill that was not of personal service to Brown County to make those adjustments for our next meeting.
 - b. Approve payment of the Centofanti Phillips bills capped at \$1,500.
 - c. Pay outstanding bills less the amount that was previously paid inappropriately in the amount of \$5,658.50.
5. Report from Attorney Fred Mohr re: Procedures in handling the legal bills & take possible Action. That until we have a policy in place, to have legal bills reviewed by the Executive Committee for payment.
6. County Executive report.
 - a. Budget Status Financial report for October 31, 2008. Receive & place on file.
7. Labor Negotiator Report.
 - a) Discussion of IRS Mileage rate: 3.11 (g) 2. That we regularly pay 80% of the Federal IRS guidelines.
 - b) Human Services Quality Positions (possible action). Refer job descriptions back to Human Resources and Human Services to rewrite job descriptions to meet the needs of the Human Services Department and not be in conflict with the ordinance.
8. Internal Auditor Report.
 - a. Budget Status Financial Report for October 31, 2008. Receive & place on file.
 - b. Other. Receive & place on file.

9. Invoice - Approval of payment to Green Bay City Treasurer Invoice for Council Chamber Supplies. Approve.
10. Resolution re: Authority to Execute a 2009 Labor Agreement with the Brown County Highway Department Employees. Committee approved. See Resolutions, Ordinances December County Board.
11. Resolution re: Brown County Sustainability Resolution. Committee approved. See Resolutions, Ordinances December County Board.
12. **Closed Session:** For the purpose of deliberating whenever competitive or bargaining reasons require a closed session pursuant to 19.85 (1)(e). In the alternative, the Executive committee is meeting for the purpose of collective bargaining and is not subject to the Wisconsin open meetings law pursuant to 19.82 (1) of the Wisconsin State Statutes, and also for the purpose of conferring with legal counsel for Brown County as to legal advice concerning strategy as to litigation pending pursuant to sec. 19.85 (1) (g) of the Wisconsin State Statutes. (No Closed Session held.)

A motion was made by Supervisor Johnson and seconded by Supervisor Dantine “**to adopt**”. Voice vote taken. Motion carried unanimously with no abstentions.

Approved by: _____ \s\ _____ Tom Hinz, County Executive _____ Date: 12/22/2008

No. 9d -- REPORT OF HUMAN SERVICES COMMITTEE OF NOVEMBER 25, 2008

TO THE MEMBERS OF THE BROWN COUNTY
BOARD OF SUPERVISORS

Ladies and Gentlemen:

The HUMAN SERVICES COMMITTEE met in regular session on November 25, 2008, and recommends the following motions:

1. Review minutes of:
 - a. Human Services Board (10/16/08).
 - b. Children with Disabilities Education Board (10/14/08).
 - c. Community Options Program Appeals Committee (10/13/08 & 10/27/08).
 - d. Aging & Disability Resource Center (10/23/08).
 - e. Veterans Recognition Sub Committee (10/7/08 & 10/28/08).
 - f. Homeless Issues & Affordable Housing Sub Committee (11/18/08).

Receive & place on file items a-f.
2. Communication from Supervisor Steve Fewell re: to have Human Resources and Mental Health staff develop a safety policy regarding the number of hours that an employee can be allowed to work to guarantee client safety. (Referred from November County Board.) Hold for one month.
3. Communication from Supervisor Knier re: Study and develop a plan for vision and hearing screening to be done by school districts. (Referred from November County Board.) Form a committee.
4. Communication from Supervisor Vander Leest re: Request for a complete outside review of the operations, staffing and programs at the Mental Health Center. Moreover, we should consider the impact of the new Mental Health Center. (Referred from November County Board.) Receive & place on file.
5. Communication from Supervisor Tom Lund re: To look at the overtime budget and temporary help budget in the CTC for efficiencies. (Referred from November County Board.) Hold for one

month.

6. Veterans Dept. - Request for Budget Transfer (#08-77): Increase in Expenditures with Offsetting Increase in Revenue: Allocation of \$6,000 in donated funds to help needy veterans. Approve.
7. Veterans Dept. - Budget Status Financial Report for September & October 2008. Receive & place on file.
8. Veterans Dept. - Director's report. Receive & place on file.
9. Human Services Dept. - Request for Budget Transfer (#08-81): Increase in Expenditures with Offsetting Increase in Revenue: Human Services Department has been awarded an Office of Justice Assistance Project Safe Grant for \$23,957.00. Approve.
10. Wisconsin Association of County Homes discussion of a Resolution re: Supplemental Payment/Certified Public Expenditure Program for County Nursing Homes. Committee approved. See Resolutions, Ordinances December County Board.
11. Donor Appeal discussion for Community Treatment Center. Approve concept.
12. Mental Health Center Statistics (September & October 2008). Receive & place on file.
13. Bellin Psychiatric Monthly Report (September & October 2008). Receive & place on file.
14. Approval of New Non-Continuous Vendor Approve.
15. Approval of New Contract Vendors. Approve.
16. Monthly Contract Update. Receive & place on file.
17. Budget Status Financial Report for Community Programs. Receive & place on file.
18. Budget Status Financial Report for Mental Health Center (September 2008). Receive & place on file.
-
19. Director's report. Receive & place on file.
 - a. WCHSA Minutes of October 23, 2008. Receive & place on file.
20. Audit of bills. Pay the bills.
21. Aging & Disability Resource Center – Revenue & Expense Report for September 30, 2008; Health Dept – Budget Status Financial Report for September 30, 2008. Receive & place on file.

A motion was made by Supervisor Knier and seconded by Supervisor Evans **“to adopt”**. Supervisor Vander Leest requested item #4 be taken separately. Voice vote taken. Remainder of report passed unanimously with no abstentions.

Item #4 -- Communication from Supervisor Vander Leest re: Request for a complete outside review of the operations, staffing and programs at the Mental Health Center. Moreover, we should consider the impact of the new Mental Health Center. (Referred from November County Board.) COMMITTEE ACTION: Receive and place on file.

Following discussion, a motion was made by Supervisor Warpinski and seconded by Supervisor De Wane **“to approve the Committee's Action and receive and place on file item #4”**. Voice vote taken. Motion carried unanimously with no abstentions.

Approved by: _____ \s\ Tom Hinz, County Executive _____ Date: 12/22/2008

No. 9e -- REPORT OF PLANNING, DEVELOPMENT & TRANSPORTATION COMMITTEE OF NOVEMBER 25, 2008

TO THE MEMBERS OF THE BROWN COUNTY BOARD OF SUPERVISORS

Ladies and Gentlemen:

The PLANNING, DEVELOPMENT & TRANSPORTATION COMMITTEE met in regular session on November 25, 2008, and recommends the following motions.

1. Review minutes of:
 - a) Solid Waste Board (98/08).
 - b) Harbor Commission (10/23/08).Receive & place on file items a-b.
2. Airport - Budget Status Financial Report for October 31, 2008. Receive & place on file.
3. Airport - Communication from Supervisor Vander Leest re: Request a copy of the Wingate Motel Lease or purchase sale agreement executed between the Brown County Airport and the Oneida Tribe. (Referred from November County Board.) Fifty-page lease provided to Supervisor John Vander Leest & Chair Bernie Erickson prior to this meeting. (Copy of lease is available in County Board office.) Receive & place on file.
4. Property Listing - An Ordinance: To Amend Chapter 21 of the Brown County Code Entitled "Subdivisions." (Referred back to Committee from November County Board.) Refer to staff to draft proper language.
5. Property Listing - Budget Status Financial report for October 31, 2008. Receive & place on file.
6. Port/Solid Waste - Recommendation of Renard Isle End Use. Keep on agenda for monthly update.
7. Port/Solid Waste - Resolution re: Approving 2009 Port and Solid Waste Department Budget Change – Ability to Charge a Fee for Recycled Material Processing. Committee approved. See Resolutions, Ordinances December County Board.
8. Port/Solid Waste - Resolution re: Harbor Fee. Committee approved and requested that the Harbor Commission and Planning, Development & Transportation Committee review harbor fees annually at budget time. See Resolutions, Ordinances December County Board.
9. Port/Solid Waste - Budget Status Financial Reports for August 31, September 30, & October 31, 2008. Receive & place on file.
10. Port/Solid Waste - Director's report. Receive & place on file.
11. Highway - Communication from Supervisor Nicholson re: To review the traffic lights at "JJ" and Manitowoc Road with possible action. (Referred from November County Board.) Receive & place on file.
12. Highway - Request from Supervisor Dave Kaster re: Review lowering speed limit on County Trunk "JJ" in Bellevue between Huron Road and Emerald Road. Reduce the speed limit on County Trunk "JJ" in Bellevue between Huron Road and Ontario Road to 35 mph with a copy to the County Board.
13. Highway - Presentation/Evaluation of Highway Department by Labor Negotiator, Don Vanderkelen. (Held from previous meeting.) No action. (For further discussion, this agenda item be put on December agenda.)
14. Highway - Budget to Actual State Billing. Receive & place on file.
15. Highway - Commissioner's report. Receive & place on file.
16. Planning Commission - Budget Status Financial Report for October 31, 2008. Receive & place on file.
17. Planning Commission - Brown County Brownfields Assessment Grant Request for Proposals (RFP) from Aaron Schuette, Senior Planner. Approve.
18. Planning Commission - Request for Proposal for Environmental Consultant (Project #1335). Approve.
19. Planning Commission - Request for staff updates on recommendations and development options

on land east of the current jail site (standing item). Delay drafting of an RFP for 120 days.

20. **Closed Session:** The committee may entertain a motion and to enter into closed session for the purpose of considering performance evaluation data of employees over which it exercises jurisdiction and responsibility and for the purpose of considering certain work assignment issues where competitive and bargaining reasons require a closed session as provided at Wis. State Stats. Section 19.85 (1) (c). (No Closed session held)
21. Audit of bills. Approve payment of bills.
22. UW-Extension - Budget Status Financial Report for October 31, 2008; Register of Deeds - Budget Status Financial Report for August, September & October 2008; Zoning - Budget Status Financial Report for October 31, 2008. Receive & place on file. Budget Status Reports for UW-Extension, Register of Deeds & Zoning.

A motion was made by Supervisor Erickson and seconded by Supervisor Kaster **“to adopt.”**

Supervisor Evans requested item #2 be taken separately. Voice vote taken. Remainder of report passed unanimously with no abstentions.

Item #2 -- Airport - Budget Status Financial Report for October 31, 2008. COMMITTEE ACTION: Receive and place on file.

Supervisor Evans asked Tom Miller to answer a few concerns he has in regards to the de-icer used at the Airport.

Tom Miller, Director of Austin Straubel International Airport, explained the lack of de-icer products, resulting from a strike in Canada, increased prices and decreased availability of the product.

A motion was made by Supervisor Evans and seconded by Supervisor Clancy **“to receive and place on file Item #2”**. Voice vote taken. Motion carried unanimously with no abstentions.

Approved by: \s\ Tom Hinz, County Executive Date: 12/22/2008

No. 9e(i) -- REPORT OF LAND CONSERVATION SUBCOMMITTEE OF NOVEMBER 25, 2008

The LAND CONSERVATION SUB COMMITTEE met in regular session on November 25, 2008, and recommends the following motions.

1. Town of Morrison request for Ground Water Account Funds for well testing on December 2, 2008. Approve the request for Ground Water Account Funds for Well Testing in the Town of Morrison not to exceed \$2,250.
2. Variance Request from John Ullmer, 3387 Poolside Drive, Pulaski, proposed feedlot and existing feedlot closer than 100 feet to property line. A letter be drafted between the two parties, forwarded to the Land Conservation Department, and addressed at the next meeting of this committee on December 23, 2008, that the proper permits be acquired, and that it include a provision that the self-closing stalls be moved during a one-year time period.
3. Review and approval of WLWCA resolutions. Approve.
4. Approval of WLWCA proxy. Approve Bill Hafs as WLWCA Proxy.
5. Land Conservation Department Budget Update. Receive & place on file.
6. Director's report. No Action.

A motion was made by Supervisor Fleck and seconded by Supervisor Clancy **“to adopt.”** Voice vote taken. Motion carried unanimously with no abstentions.

Approved by: \s\ Tom Hinz, County Executive Date: 12/22/2008

No. 9f -- REPORT OF PUBLIC SAFETY COMMITTEE OF DECEMBER 3, 2008

TO THE MEMBERS OF THE BROWN COUNTY
BOARD OF SUPERVISORS

Ladies and Gentlemen:

The PUBLIC SAFETY COMMITTEE met in regular session on December 3, 2008, and recommends the following motions:

1. Review minutes and reports of:
 - a. Fire Investigation Task Force General Membership (9/4/08).
 - b. Fire Investigation Task Force Board of Directors (9/4/08).
 - c. Criminal Justice Coordinating Board (10/28/08).Receive & place on file items a-c.
2. Communication from Supervisor Lund re: To have Sheriff's Department work with Human Resources to solve the problem of recruitment including background checks on prospective employees. (Referred from November County Board.) Receive & place on file.
3. ** Communication from Supervisor Vander Leest re: Request for the ~~Public Safety Committee~~ Staff to approve resolutions to the State & Federal government seeking additional funding for the Brown County Drug Task Force to help drug enforcement in our community. (Referred from November County Board.) Receive & place on file.

** Supervisor Vander Leest submitted the request by replacing "Public Safety Committee" with "Staff" which was approved by the County Board on 12/17/2008.

4. Communication from Supervisor Vander Leest re: Request for a comprehensive plan to fight drugs in Brown County and to have the Sheriff Department review options to have additional support from the Sheriff's department for the Brown County Drug Force. (Referred from November County Board.) Receive & place on file.
5. Communication from Supervisor Hoeft on behalf of Supervisors Fewell, Dantine, Krueger, Kaster, Fleck, Clancy, Erickson, Warpinski, Johnson, Lund, Brunette, Knier, De Wane, Langan, Andrews, La Violette, Wetzel & Evans: To the Public Safety Committee to direct the County Executive to develop a comprehensive plan for fighting and preventing illegal drug use in Brown County and that this plan be presented to the full County Board in time for consideration in the FY 2010 budget. (Referred from November County Board.) That Chairman Nicholson request County Board Chairman Guy Zima to schedule a presentation by the Drug Task Force at the County Board meeting in January; that the matter be referred to the Criminal Justice Coordinating Board, and that a member of this committee be assigned to sit on the Criminal Justice Coordinating Board.
6. Communication from Supervisor Nicholson re: Review the implementation of a fee on Teen Court. (Referred from November County Board.) That the \$100 fee includes a waiver process to be set up by Lois Mischler to accommodate low income participants.
7. Volunteers in Probation – Monthly Statistics (October 31, 2008). Receive & place on file.
8. Teen Court - October 2008 Teen Court Stats. Receive & place on file.
9. Medical Examiner - Budget Status Financial Report for October 31, 2008. Receive & place on file.
10. Medical Examiner - Request by Medical examiner for 5% increase. (Requested on Executive Committee's agenda.) Hold for one month.
11. District Attorney - Status of District Attorney case filings involving drugs (to be distributed at meeting.) Receive & place on file.
12. District Attorney - Budget Status Financial Report for October 31, 2008. Receive & place on file.
13. Public Safety Communications - Budget Status Financial Report for October 31, 2008. Receive & place on file.

14. Public Safety Communications - Director's report. Receive & place on file.
15. Sheriff - Drug Task Force Rent for Office Space. (Requested from previous meeting.) Receive & place on file.
16. Sheriff - DARE Program. (Requested from previous meeting.) Receive & place on file.
17. Sheriff - Request for Budget Transfer (#08-76): Increase in Expenditures with Offsetting Increase in Revenue: Notification from Office of Justice Assistance that grant budget for equipment was increased from \$50,000 to \$56,465. This budget transfer is to allocate the additional \$6,465 funds received. Approve.
18. Sheriff - Resolution re: 2009 County-Tribal Law Enforcement Grant. Committee approved. See Resolutions, Ordinances December County Board.
19. Sheriff - Key Factor Report 2008 and Jail Average Daily Population by month 2008 for December 3, 2008 meeting. Receive & place on file.
20. Sheriff - Brown County Villages Police Services Contract:
 - a) Village of Allouez Police Services Contract.
 - b) Village of Suamico Police Services Contract.
 - c) Village of Howard Police Services Contract.Committee approved items a-c.
21. Sheriff - Budget Status Financial Report for October 30, 2008. Receive & place on file.
22. Sheriff - Request for Budget Transfer (#08-88): Increase in Expenditures with Offsetting Increase in Revenue: Utilizing Dept. of Military Affairs funding for Brown County Drug Task Force (\$14,714.00). Approve.
23. Sheriff's report. Receive & place on file.
24. Clerk of Courts - Budget Status Financial Report for October 2008. Receive & place on file.
25. Circuit Courts - Budget Status Financial Report for October 2008. Receive & place on file.
26. Emergency Management Office - Budget Status Financial Report for October 31, 2008. Receive & place on file.
27. Audit of bills. Approve audit of bills.

A motion was made by Supervisor Vander Leest and seconded by Supervisor Johnson **"to adopt."** Supervisor Vander Leest requested Items #3 and #4 be taken separately. Voice vote taken. Remainder of report passed unanimously with no abstentions.

Item #3 -- Communication from Supervisor Vander Leest re: Request for the Public Safety Committee to approve resolutions to the State & Federal government seeking additional funding for the Brown County Drug Task Force to help drug enforcement in our community. (Referred from November County Board.) COMMITTEE ACTION: Receive and place on file.

A motion was made by Supervisor Warpinski and seconded by Supervisor De Wane **"to adopt item #3"**.

A motion was made in writing by Supervisor Vander Leest, which reads: **"request for staff to approve resolutions to the State and Federal government seeking additional funding for the Brown County Drug Task Force to help drug enforcement in our community"**. Voice vote taken. Motion carried unanimously with no abstentions.

Item #4 -- Communication from Supervisor Vander Leest re: Request for a comprehensive plan to fight drugs in Brown County and to have the Sheriff Department review options to have additional support from the Sheriff's department for the Brown County Drug Force. (Referred from November County Board.) COMMITTEE ACTION: Receive and place on file.

A motion was made by Supervisor Krueger and seconded by Supervisor Warpinski **“to adopt item #4 as approved by the Committee to receive and place on file”**. Voice vote taken Motion carried unanimously.

Approved by: _____ \s\ _____ Tom Hinz, County Executive Date: 12/22/2008

No. 10 -- RESOLUTIONS, ORDINANCES:

No. 10a -- RESOLUTION REGARDING: SECTION 403(B) TAX DEFERRED ANNUITY PLAN

TO THE HONORABLE CHAIRMAN AND MEMBERS OF THE
BROWN COUNTY BOARD OF SUPERVISORS

Ladies and Gentlemen:

WHEREAS, Brown County has established a 403(b) tax deferred annuity plan to accept employee salary reduction contributions; and

WHEREAS, Brown County is bringing the plan into compliance with the written plan document requirement of the final 403(b) regulations; and

WHEREAS, the Human Resources Department has reviewed the provisions of the attached plan document.

NOW, THEREFORE, BE IT RESOLVED, by the Brown County Board of Supervisors, that the attached Section 403(b) tax deferred annuity plan is hereby approved.

Respectfully submitted,
ADMINISTRATION COMMITTEE

A motion was made by Supervisor Lund and seconded by Supervisor Erickson **“to adopt”**. Voice vote taken. Motion carried unanimously with no abstentions.

Approved by: _____ \s\ _____ Tom Hinz, County Executive Date: 12/22/2008

ATTACHMENT TO RESOLUTION #10A

**SECTION 403(B) TAX-DEFERRED
ANNUITY PLAN**

EMPLOYEE SALARY REDUCTION CONTRIBUTIONS

(to follow at the end of the minutes)

No. 10b -- RESOLUTION REGARDING: AUTHORITY TO EXECUTE A 2009 LABOR AGREEMENT WITH THE BROWN COUNTY HIGHWAY DEPARTMENT EMPLOYEES

TO THE HONORABLE CHAIRMAN AND MEMBERS OF THE

BROWN COUNTY BOARD OF SUPERVISORS

Ladies and Gentlemen:

BE IT RESOLVED by the Brown County Board of Supervisors, that the County Executive and County Clerk be and are hereby authorized to executed a one (1) year labor agreement on behalf of Brown County with the Brown County Highway Department Employees for the year 2009 effective January 1, 2009, which agreement shall provide the following major changes from the 2007-2008 labor agreement.

All items, with the exception of wages, or except as specifically provided otherwise will be prospective effective the date of signing of the agreement.

BE IT FURTHER RESOLVED that the funds to cover the costs resulting from the adoption of this resolution shall be made available from funds budgeted for this purpose.

1. Change all reference of Local 75 to Local 662.
2. ARTICLE 1. RECOGNITION – DUES CHECK OFF – FAIR SHARE
Add the following language beginning at Line 43.

The Employer agrees to deduct from the paycheck of all employees covered by this Agreement voluntary contributions to DRIVE (Democratic Republican Independent Voter Education). DRIVE shall notify the Employer of the amounts designated by each contributing employee that are to be deducted from the employee's paycheck on a bi-weekly basis for all weeks worked. The phrase "weeks worked" excludes any week other than week in which the employee earned a wage. The Employer shall transmit to DRIVE National Headquarters monthly, the total amount deducted along with the name of each employee on whose behalf a deduction is made, the employee's clock number and the amount deducted from the employee's paycheck.

3. ARTICLE 8. CORRECTIVE ACTION – GRIEVANCE PROCEDURE
Add the following language beginning at Line 186.

Disciplinary letters for a specific incident shall remain in effect for nine (9) months. Accident history will be considered for progressive discipline purposes.

4. ARTICLE 11. INSURANCE
Delete lines 250-251.

~~Based on the 2007 HSP enrollments should the number fall below 10% of total Brown County Highway employees, the HSP will discontinue in 2008.~~

Modify lines 261-266 as follows:

There shall be no guarantee that the provider networks will remain the same or will be continued during or after the term of this agreement. Notice will be required prior to discontinuance of any change to the provider networks in sufficient time to allow employees to opt into another plan at the time of the change or annually during the ~~open~~ enrollment annual option period before the change is implemented. If the County continues to offer this plan after the expiration of this contract, the County agrees that coverage will be negotiable. Individual providers will not be guaranteed.

Modify lines 271-272 as follows:

Maximum allowable fee ~~as used in the PPO~~ and Usual and Customary fee ~~as used in the Basic and HSP plans~~ are intended to be synonymous terms

5. ARTICLE 12. PENSION

The WRS contribution will be increased commensurate with the wage increases.

6. ARTICLE 19. BEREAVEMENT LEAVE

Modify lines 517-520 as follows:

Three (3) days leave shall be granted in the event of death of sibling (brother or sister), mother/father-in-law or grandchild.

One (1) day leave shall be granted in the event of death of aunt/uncle of the employee or spouse, grandparent, ~~mother/father-in-law~~, spouse's grandparents, sister/brother-in-law, son/daughter-in-law.

7. ARTICLE 22. HOURS OF WORK

Modify lines 758 as follows:

1. Time Element: The ~~last~~ second Monday in April through the last Friday in September.

8. ARTICLE 23. SENIORITY

Modify lines 822-823 as follows:

Vacancies created by medical leaves of absence that extend beyond ~~180~~ 60 days will be posted as temporary vacancies.

Modify lines 906-908 as follows:

No employee shall be displaced on a specific project if such displacement is for the purpose of enforcing seniority, except in snow emergency situations, culvert steaming operations, and the Crafcu rubber machine and then only the bid person shall be allowed to displace someone.

9. ARTICLE 29. ALCOHOL SUBSTANCE ABUSE POLICY AND PROCEDURES

Modify lines 1021 and 1025 as follows:

Effective April 1, 1992, all employees, with the exception of engineer technicians, are required to have a valid Class "A", with tanker endorsements, Wisconsin Commercial Drivers License. Fuel man and shop employees will be required to have a hazardous material hauling endorsement, Wisconsin Commercial Drivers License. If no one selects to carry the endorsement, inverse seniority will be used, where employees are qualified. The county agrees to pay the cost of the hazardous material endorsement for the fuel man and two additional highway employees engaged in the occupation. Also, a valid Class "A" license will be a pre-employment qualification for all "new" employees as of April 1, 1992.

10. ARTICLE 31. DURATION OF AGREEMENT

One year agreement – 2009.

11. SCHEDULE "A"

Revise to reflect:

1.5% increase effective December 28, 2008

1.5% increase effective June 28, 2009

Modify lines 1156-1158 as follows:

All employees in the mechanic category and blacksmith category required to furnish tools shall be reimbursed up to the total of ~~three hundred sixty dollars (\$360.00) in 2007 and three hundred seventy dollars (\$370.00) in 2008~~ three hundred eighty dollars (\$380.00) in 2009.

Delete lines 1160-1161:

~~For 2007 the position of Chief Mechanic in Classification A1 of the wage schedule will be \$0.75/hour higher than the 1st Mechanic in Classification D of the wage schedule.~~

Delete lines 1188-1189:

~~Truck drivers assigned to snow removal operations operating patrol trucks without wing shall receive a winter differential of an additional five cents (\$.05 per hour from December 1 to April 1.)~~

12. MEMORANDUMS OF UNDERSTANDING

CDL Policy – Resign

Direct Deposit – Incorporate into contract

Summer Work Week – Incorporate into contract

Respectfully submitted,
EXECUTIVE COMMITTEE

A motion was made by Supervisor De Wane and seconded by Supervisor Nicholson **"to adopt"**. Voice vote taken. Motion carried unanimously with no abstentions.

Approved by: /s\ Tom Hinz, County Executive Date: 12/22/2008

No. 10c -- RESOLUTION REGARDING: BROWN COUNTY SUSTAINABILITY RESOLUTION

TO THE HONORABLE CHAIRMAN AND MEMBERS OF THE
BROWN COUNTY BOARD OF SUPERVISORS

Ladies and Gentlemen:

WHEREAS, Sustainability means satisfying our present needs without compromising the ability of future generations to meet their needs; and

WHEREAS, Sustainable County Government means:

1. Leading by demonstrating sustainable stewardship that will yield cost savings to taxpayers by reducing County operating costs;

2. Providing healthy work environments for County staff, visitors and clients while protecting, conserving and enhancing the County's resources and establishing community standards of sustainable living practices;
3. Operating County facilities to minimize environmental impacts by incorporating the use of sustainability and energy efficient materials, renewable resources, alternative energy and fuels, water conservation and waste reduction;
4. Designing, constructing new and renovating existing County facilities utilizing Green Building design guidelines including LEED and Energy Star design criteria;
5. Developing and implementing sustainable fleet management policies and procedures that will result in improved vehicle operational and maintenance practices and fuel efficiencies; and

WHEREAS, the County should be a leader in setting policies, guidelines, goals and strategic actions that will result in a more sustainable community; and

WHEREAS, the County Executive has established the Energy Oversight Committee to draft a long range energy strategic plan; and

WHEREAS, the State of Wisconsin 2025 Energy Independence goals are to:

1. Generate 25 percent of our electricity and 25 percent of our transportation fuel from renewable fuels by 2025;
2. Capture 10 percent of the market share for the production of renewable energy sources by 2030, bringing \$13.5 billion annually to Wisconsin's economy by 2030;
3. Become a national leader in groundbreaking research that will make alternative energies more affordable and available to all -- and to turn those discoveries into new, high paying Wisconsin jobs.

NOW, THEREFORE BE IT RESOLVED, that the Brown County Board of Supervisors are committed to Sustainable County Government procedures and declares itself a partner with the State of Wisconsin in the pursuit of the "25 x 25" goals for energy independence.

BE IT FURTHER RESOLVED, that the County Clerk shall provide a copy of this resolution to Governor Doyle, the Brown County state delegation and the Wisconsin Counties Association.

Respectfully submitted,
EXECUTIVE COMMITTEE

Fiscal Impact: None

A motion was made by Supervisor La Violette and seconded by Supervisor Lund **"to adopt"**. Voice vote taken. Motion carried unanimously with no abstentions.

Approved by: _____ \s\ Tom Hinz, County Executive Date: 12/22/2008

No. 10d -- RESOLUTION RE: SUPPLEMENTAL PAYMENT/CERTIFIED PUBLIC EXPENDITURE PROGRAM FOR COUNTY NURSING HOMES

TO THE HONORABLE CHAIRMAN AND MEMBERS OF THE
BROWN COUNTY BOARD OF SUPERVISORS

Ladies and Gentlemen:

WHEREAS, the Supplemental Payment Program, formerly known as the intergovernmental transfer program, generates federal matching funds based on actual operating losses incurred by governmental nursing homes; and

WHEREAS, the amount of revenue that may be generated is capped by the federal government (Medicare Upper Limit); and

WHEREAS, all revenue generated from county nursing home losses is deposited in the State of Wisconsin's Medical Assistance Trust Fund; and

WHEREAS, the 2007-09 State biennial budget anticipates Medicaid deficits for county and municipal nursing homes of \$140,040,600 in FY 08 and \$136,858,800 in FY 09; and

WHEREAS, payments to counties from the federal match paid on county losses are capped at \$37.1 million each year, and the State anticipates utilizing \$40,000,000 in FY 08 and \$37,000,000 in FY 09 in federal matching funds for its Medicaid programs; and

WHEREAS, under current State law, total supplemental payments to county and municipal homes may not exceed \$37.1 million per year; and

WHEREAS, counties have never received less than \$37.1 million in payments annually; and

WHEREAS, county nursing homes generated significant losses as many county homes serve individuals with high acuity levels and intense behavioral needs; and

WHEREAS, the Medical Assistance rates paid to county nursing homes is insufficient to cover the cost of care for patients with significant care needs; and

WHEREAS, over the years, the number of county nursing homes has declined; and

WHEREAS, many counties can no longer afford to allocate property tax dollars to the operation of a county home, yet county homes provide a valuable public service; and

WHEREAS, if more counties sell or close their county nursing homes, county nursing home losses decrease, generating fewer dollars under the certified public expenditure program for county and state use; and

WHEREAS, as the \$37.1 million referenced in statute represents a cap on payments to counties, the State has the ability to provide payments to county and municipal homes in an amount less than \$37.1 million.

NOW, THEREFORE, BE IT RESOLVED, that the Brown County Board of Supervisors supports a legislative change requiring the State of Wisconsin to pay county and municipal nursing homes at least \$37.1 million annually under the supplemental payment program.

BE IT FURTHER RESOLVED, that the Wisconsin Counties Association and the Wisconsin Association of County Homes work in cooperating with the Department of Health Services to develop a plan to return all revenue generated from county nursing home losses to counties over a five-year period.

BE IT FURTHER RESOLVED, that a copy of this Resolution be sent to DHS Secretary Karen Timberlake, DOA Secretary Michael Morgan, Governor Jim Doyle, all area legislators and the Wisconsin Counties Association.

Respectfully submitted,
HUMAN SERVICES COMMITTEE

A motion was made by Supervisor Clancy and seconded by Supervisor Kaster **“to adopt”**. Voice vote taken. Motion carried unanimously with no abstentions.

Approved by: \s\ Tom Hinz, County Executive Date: 12/22/2008

No. 10e -- ORDINANCE REGARDING: TO AMEND CHAPTER 21 OF THE BROWN COUNTY CODE ENTITLED “SUBDIVISIONS”

REMOVED FROM THE AGENDA.

No. 10f -- RESOLUTION REGARDING: APPROVING 2009 PORT AND SOLID WASTE DEPARTMENT BUDGET CHANGE - ABILITY TO CHARGE A FEE FOR RECYCLED MATERIAL PROCESSING

TO THE HONORABLE CHAIRMAN AND MEMBERS OF THE
BROWN COUNTY BOARD OF SUPERVISORS

Ladies and Gentlemen:

WHEREAS, there has been a sudden change in American and world economics resulting in an unexpected drop in value of processed recycled containers and mixed paper; and

WHEREAS, because of this fact, Brown County’s net profit for processing these materials has decreased, which in turn decreases the amount of revenue payments available to return to recycling customers; and

WHEREAS, this drop in value has occurred since the 2009 budget was produced and a continued fall in prices is expected into the 2009 budget year; and

WHEREAS, Brown County has not charged its customers for processing recyclable materials since 2004, and if the value continues to decrease and revenues fall below processing costs, it will have to charge a fee to cover the cost; and

WHEREAS, since the markets are constantly changing, it is hereby requested that the Port & Solid Waste Department be given the ability to vary the payment or fee calculation and requests the Brown County Board of Supervisors add Material Recycling Facility Fee for Recycled Materials (Calculated monthly) under the Port & Solid Waste Rates and Fees for Budget year 2009.

NOW, THEREFORE, BE IT RESOLVED by the Brown County Board of Supervisors that it hereby approves the Port & Solid Waste Department be given the ability to vary the payment or fee calculation and approves adding Material Recycling Facility Fee for Recycled Materials (Calculated monthly) under the Port & Solid Waste Rates and Fees for Budget year 2009.

Respectfully submitted,
BROWN COUNTY HARBOR COMMISSION
PLANNING, DEVELOPMENT &
TRANSPORTATION COMMITTEE

A motion was made by Supervisor Fleck and seconded by Supervisor Dantine **“to adopt”**. Voice vote

taken. Motion carried unanimously with no abstentions.

Approved by: /s/ Tom Hinz, County Executive

Date: 12/22/2008

No. 10g -- RESOLUTION REGARDING: HARBOR FEES

A motion was made by Supervisor Erickson and seconded by Supervisor Fleck **“to adopt”**.

A motion was made by Supervisor Warpinski and seconded by Supervisor Nicholson **“to remove the last ‘Be it Further Resolved’.”**

Following discussion on the above, a motion was made by Supervisor Erickson and seconded by Supervisor Lund **“to refer back to Committee”**. A voice vote was taken. Motion carried unanimously with no abstentions.

No. 10h -- RESOLUTION REGARDING: 2009 COUNTY-TRIBAL LAW ENFORCEMENT GRANT

TO THE HONORABLE CHAIRMAN AND MEMBERS OF THE
BROWN COUNTY BOARD OF SUPERVISORS

Ladies and Gentlemen:

WHEREAS, the Wisconsin Department of Justice will make available up to \$37,790 for a joint County-Tribal Law Enforcement grant to be shared between Brown County and the Oneida Nation; and

WHEREAS, the grant would allow both agencies to work together in a spirit of cooperation and sharing of resources which allow the agencies to address issues in law enforcement and public safety that affect Brown County as a whole and the Native American population and other minority populations; and

WHEREAS, approximately half of the grant funds would be used to purchase law enforcement equipment for the Sheriff’s Department, as designated in the 2009 budget; and

WHEREAS, remaining funds would be used for items deemed reasonable and necessary by the Oneida Nation for public safety purposes.

NOW, THEREFORE, BE IT RESOLVED by the Brown County Board of Supervisors that Brown County will continue working cooperatively with the Oneida Nation in the area of public safety and law enforcement and will participate in the 2009 County-Tribal Law Enforcement Grant.

BE IT FURTHER RESOLVED, that the Brown County Sheriff’s Department’s 2009 budget already reflects the County’s original budget estimated portion of grant revenues and expenditures in the amount of \$18,500 representing Brown County’s share. That share may be adjusted upward to \$18,895 reflecting the revised grant amount with a future budget transfer.

Fiscal Impact: 2009 budget includes grant revenue of \$18,500. If necessary a Category 5 Budget Transfer of \$395 may be submitted for the 2009 budget to increase grant revenue and expenses.

Respectfully submitted,
PUBLIC SAFETY COMMITTEE

A motion was made by Supervisor Evans and seconded by Supervisor Clancy **“to adopt”**. Voice vote taken. Motion carried unanimously with no abstentions.

Approved by: \s\ Tom Hinz, County Executive Date: 12/22/2008

No. 11 -- SUCH OTHER MATTERS AS AUTHORIZED BY LAW.

A motion was made by Supervisor Vander Leest and seconded by Supervisor Haefs **“to suspend the rules to allow for late communications”**. Voice vote taken. Motion carried unanimously with no abstention.

LATE COMMUNICATIONS:

No. 11a -- FROM SUPERVISOR VANDER LEEST REGARDING: REQUEST FOR AN UPDATE ON THE CONSTRUCTION OF THE MENTAL HEALTH CENTER AND RELATED COSTS AND BUDGET TO DATE.

- Refer to Human Services Committee.

No. 11b -- FROM SUPERVISORS JOHNSON & VANDER LEEST REGARDING: REQUEST TO DETERMINE THE NUMBER OF ACCIDENTS IN BROWN COUNTY RELATED TO CELL PHONE USE.

- Refer to Public Safety Committee.

A motion was made by Supervisor Warpinski and seconded by Supervisor Erickson **“to return to the regular order of business”**. Voice vote taken. Motion carried unanimously with no abstentions.

No. 12 -- BILLS OVER \$5,000 FOR PERIOD ENDING DECEMBER 1, 2008

- A motion was made by Supervisor Clancy and seconded by Supervisor Fleck **“to pay the bills over \$5,000 for period ending December 1, 2008”**. Voice vote taken. Motion carried unanimously with no abstentions.

No. 13 -- CLOSING ROLL CALL:

- Present: Warpinski, De Wane, Nicholson, Theisen, Krueger, Haefs, Erickson, Brunette, Zima, Evans, Vander Leest, Johnson, Dantine, La Violette, Kaster, Knier, Williams, Fleck, Clancy, Wetzel, Langan, Scray, Lund, Fewell

Excused: Andrews, Hoeft

Total Present: 24 Total Excused: 2

No. 14 -- ADJOURNMENT TO WEDNESDAY, JANUARY 21, 2009, AT 7:00 P.M. LEGISLATIVE ROOM, #203, CITY HALL, 100 NORTH JEFFERSON STREET,

GREEN BAY, WISCONSIN.

A motion was made by Supervisor Kaster and seconded by Supervisor Clancy **“to adjourn to the above date and time”**. Voice vote taken. Motion carried unanimously with no abstentions.

Meeting adjourned at 9:45 p.m.

_____\s\ DARLENE K. MARCELLE
Brown County Clerk

**SECTION 403(b) TAX-DEFERRED
ANNUITY PLAN**

EMPLOYEE SALARY REDUCTION CONTRIBUTIONS

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10a

**SECTION 403(b) TAX-DEFERRED ANNUITY PLAN
(EMPLOYEE SALARY REDUCTION CONTRIBUTIONS ONLY)**

Preamble

The undersigned Employer hereby establishes or amends its Tax-Deferred Annuity program by adoption of this Plan document to be effective as of January 1, 2009. The Employer is an Eligible Employer as described in Section 403(b)(1)(A) of the Code. This Plan permits only Employee Salary Reduction Contributions made pursuant to voluntary salary reduction agreements between the Employer and its Eligible Employees that are excludable from gross income under the Code. The Plan does not provide for any other contributions by the Employer or Eligible Employees. All contributions under this Plan are invested in one or more Annuity Contracts. This Plan and its Annuity Contracts are intended to comply with Section 403(b) of the Code and (if applicable) the requirements of ERISA.

Section 1 Specifications

The Employer hereby selects the following specifications for its Plan:

1.1 Plan Name: Tax Deferred Annuity Plan for Employees of the Employer listed in Section 1.2 below.

1.2 Employer Name: Brown County

Note: Under Plan Sections 2.14 and 2.15, this Plan generally covers all Eligible Employees of any employer that is required to be aggregated with the Employer specified above under the controlled group rules of the Code. Any other employer that adopts this Plan should be listed on an Appendix B attached to this Plan document.

1.3 Administrator (complete if applicable)

The Administrator shall be the Employer unless another person or entity is specified below:

Name and Address of Other Administrator: N/A

Note: If the Employer is appointed Administrator, this Plan will be subject to ERISA unless the Employer is a church organization or a public educational institution exempt from ERISA. Mutual of America Life Insurance Company may not be appointed as the Administrator.

1.4 Loans (check if applicable):

Loans will be permitted under this Plan in accordance with Section 8 **unless the following box is checked.**

☒ Loans are not permitted under this Plan.

10a

Section 2 General Definitions

The following words and phrases as used herein have the meanings defined, unless a different meaning is plainly required by the context. Words of the masculine gender as used herein shall include the feminine, and words in the singular form as used herein shall be construed as though they were also used in the plural form in all cases where they would so apply and vice versa.

- 2.1 **"Accounts"** means the Accounts maintained for each Participant in accordance with Section 5 representing the Participant's interest in the Annuity Contracts under this Plan.
- 2.2 **"Active Participant"** means an Eligible Employee who is participating in this Plan in accordance with Section 3.
- 2.3 **"Administrator"** means the individual or entity responsible for the administration of the Plan identified in Plan Section 1.3.
- 2.4 **"Annuity Contract"** means a contract listed in Appendix A of this Plan document that holds funds on behalf of a Participant under this Plan. An Annuity Contract must be either an Annuity Contract described in Section 403(b)(1) of the Code or a custodial account described in Section 403(b)(7) of the Code.
- 2.5 **"Appendix A Part I Contract"** means an Annuity Contract listed in Part I of Appendix A to this Plan document that is authorized to receive contributions, rollovers and transfers under this Plan.
- 2.6 **"Appendix A Part II Contract"** means an Annuity Contract listed in Part II of Appendix A to this Plan document that is authorized to receive rollovers and transfers (but not contributions) under this Plan.
- 2.7 **"Appendix A Part III Contract"** means an Annuity Contract listed in Part III of Appendix A to this Plan document that is not authorized to receive contributions, rollovers or transfers under this Plan.
- 2.8 **"Beneficiary"** means the individual or entity that is entitled to receive all or part of the value of a Participant's Accounts (or the remainder due under any method of payment elected by a Participant) in the event of that Participant's death. A Participant may appoint (or change) the Beneficiary entitled to receive any portion of his interest under an Annuity Contract subject to the terms of that contract and Section 10.
- 2.9 **"Benefit Commencement Date"** means the first day of the first period for which any distribution is paid to a Participant from the Plan in the form of an annuity or under any other method of payment. A Participant shall choose the Benefit Commencement Date for a distribution from an Annuity Contract subject to the terms of that contract and Section 10.3.
- 2.10 **"Code"** means the Internal Revenue Code of 1986, as amended.

- 2.11 **"Disability"** means the inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment that can be expected to result in death or that has lasted or can be expected to last for a continuous period of not less than twelve months. Disability must be established by either submission of the written opinion of a licensed physician or a determination letter from the Social Security Administration that Social Security Disability Benefits had been awarded.
- 2.12 **"Eligible Employee"** means any Employee except (a) a nonresident alien with no United States source income (as described in Section 410(b)(3)(C) of the Code) or (b) an Employee who is eligible to make salary reduction contributions to another plan of the Employer described in Section 401(k), 403(b) or 457(b) of the Code. However, if any member of a class of Employees excluded under (a) or (b) above is permitted to make Salary Reduction Contributions to this Plan, then all members of that class will be Eligible Employees.
- 2.13 **"Eligible Spouse"** means the person to whom a Participant is legally married at his Benefit Commencement Date or any earlier date on which a distribution of all or a portion of the Participant's Accounts is made under this Plan, provided that an Eligible Spouse shall include a surviving spouse under Section 10 of the Plan and a former spouse if required pursuant to a qualified domestic relations order as defined in Section 414(p) of the Code.
- 2.14 **"Employee"** means any person employed by the Employer or any other employer that is mandatorily or permissively aggregated with such Employer under Section 414(b), (c), (m) or (o) of the Code and Section 1.414(c)-5 of the Treasury Regulations.
- 2.15 **"Employer"** means the organization indicated in Section 1.2 and any other organization that adopts the Plan and is mandatorily or permissively aggregated with such Employer under Section 414(b), (c), (m) or (o) of the Code and Section 1.414(c)-5 of the Treasury Regulations. Any Employer that adopts this Plan must be (a) a non-church organization described in Section 501(c)(3) of the Code, (b) a church or qualified church-controlled organization described in Section 3121(w)(3) of the Code, or (c) a public educational institution.
- 2.16 **"ERISA"** means the Employee Retirement Income Security Act of 1974 and any amendments thereto.
- 2.17 **"Former Participant"** means a former Employee who has not yet received a distribution of the total value of his Accounts under this Plan.
- 2.18 **"Highly Compensated Employee"** means a Highly Compensated Active Employee or a Highly Compensated Former Employee. For any "Determination Year," a Highly Compensated Active Employee includes any Employee who performs services for the Employer during the Determination Year and either (a) is or was a 5% owner (as defined in Section 416(i)(1) of the Code) at any time during the Determination Year or the "Look-Back Year"; or (b) received Compensation from the Employer for the Look-Back Year in excess of \$80,000 (as adjusted pursuant to Sections 414(q) and 415(d) of the Code) and was one of the "Top-Paid Group" for the Look-Back Year. For this purpose, the "Top-Paid Group" for a year consists of the top 20% of the Employer's Employees ranked on the basis of compensation paid during that year.

A Highly Compensated Former Employee (a) includes any Employee who separated from service (or was deemed to have separated) before the Determination Year; (b) performs no services for the

Employer during the Determination Year; (c) and was a Highly Compensated Active Employee for either the year of separation or any Determination Year ending on or after the Employee's 55th birthday.

For this purpose, the "Determination Year" shall be the Plan Year. The "Look-Back Year" shall be the twelve-month period immediately preceding the Determination Year.

The determination of who is a Highly Compensated Employee, including the determinations of the number and identity of Employees in the Top-Paid Group, the top 100 Employees, the number of Employees treated as officers and the Compensation that is considered, shall be made in accordance with Section 414(q) of the Code and the regulations thereunder.

- 2.19 **"Includible Compensation"** means any salary, wages or other remuneration received by a Participant that is includible in his gross income for federal income tax purposes, plus any Salary Reduction Contributions made on his behalf that are not includible in his gross income for federal income tax purposes under Sections 125, 132(f), 402(g)(3) or 457(b) of the Code, including Salary Reduction Contributions to this Plan. Includible Compensation shall be determined without regard to community property laws and in accordance with applicable Treasury Regulations.
- 2.20 **"Information Sharing Agreement"** means an agreement between the Employer and an Issuer for the exchange of information necessary for the administration of the Plan pursuant to Section 11.4.
- 2.21 **"Issuer"** means the insurance company that issued any Annuity Contract described in Section 403(b)(1) of the Code and the custodian of any Annuity Contract described in Section 403(b)(7) of the Code.
- 2.22 **"Non-Highly Compensated Employee"** means an Employee who is not a Highly Compensated Employee.
- 2.23 **"Normal Retirement Age"** means age 65.
- 2.24 **"Participant"** means an Active or Former Participant.
- 2.25 **"Plan"** means the Tax-Deferred Annuity Plan for Employees of the Employer as set forth herein and as it may be amended from time to time.
- 2.26 **"Plan Year"** means the calendar year.
- 2.27 **"Rollover Contribution Account"** means an Account maintained on behalf of a Participant under an Annuity Contract reflecting the portion of his individual Account that is attributable to Rollover Contributions.
- 2.28 **"Rollover Contributions"** means Rollover Contributions received by the Plan on behalf of a Participant pursuant to Section 6.1.

2.29 **"Salary Reduction Contribution Account"** means an Account maintained on behalf of a Participant under an Annuity Contract reflecting the portion of his individual Account that is attributable to Salary Reduction Contributions.

2.30 **"Salary Reduction Contributions"** means contributions made by the Employer on behalf of a Participant pursuant to a salary reduction agreement between the Employer and the Participant pursuant to Section 4.1.

2.31 **"Terminated Participant"** means an individual who has received a complete distribution of his Accounts under this Plan.

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Section 3 Participation

3.1 Commencement of Participation

Any Eligible Employee may elect to become a Participant in this Plan by directing the Employer to make Salary Reduction Contributions to the Plan on his behalf in accordance with Section 4.1.

Any Eligible Employee who wishes to become a Participant shall provide such information as may be necessary to enroll him in the Plan, complete an enrollment form, and consent to be bound by the terms and conditions of this Plan and any amendments thereto as may be adopted from time to time.

An Employee who is not currently an Eligible Employee may elect to participate in the Plan immediately if he becomes an Eligible Employee.

An Eligible Employee who does not choose to become a Participant as soon as he becomes an Eligible Employee may elect to participate at any later time.

If this Plan was in effect prior to the document effective date indicated in the Preamble, every individual who was a Participant in the Plan as it existed immediately before that effective date shall continue to be a Participant in the Plan on that effective date.

3.2 Termination of Participation

A Participant shall cease to participate in the Plan and become a Terminated Participant when the total value of his Accounts is distributed.

3.3 Return to Participation

Any Terminated Participant who is rehired as an Eligible Employee may become a Participant once again by directing the Employer to make Salary Reduction Contributions on his behalf in accordance with Sections 3.1 and 4.1.

Section 4 Contributions

4.1 Salary Reduction Contributions

By completing an enrollment form and salary reduction agreement pursuant to Section 3.1, any Active Participant may elect to defer receipt of a portion of his salary for a pay period and direct the Employer to contribute that deferral to this Plan on his behalf as a Salary Reduction Contribution. Any Salary Reduction Contribution so authorized by an Active Participant shall be paid to the Plan by the Employer as soon as administratively practicable (but no later than the 15th business day of the calendar month immediately following the calendar month in which that contribution was withheld from the Participant's pay or any earlier deadline required by the Department of Labor, if the Plan is subject to ERISA).

However, Salary Reduction Contributions on behalf of a Participant who has made a withdrawal due to Hardship shall be restricted in accordance with Section 9.4(d). Moreover, to the extent required under Section 414(u) of the Code, a Participant who is reemployed after a period of qualified military service shall be permitted to make additional contributions to this Plan in an amount not to exceed the Salary Reduction Contributions that he would have been permitted to make if he had continued in employment with the Employer during that period of military service.

An Active Participant's salary reduction agreement commencing Salary Reduction Contributions shall take effect as soon as reasonably practicable as of the first day of a pay period beginning on or after the latest of (a) the date specified in that salary reduction agreement, (b) the date that the salary reduction agreement is received by the Employer or (c) the date that the Participant first became a Participant pursuant to Section 3.1. A Participant's salary reduction agreement commencing Salary Reduction Contributions may not be made retroactively, shall not be applied retroactively to compensation earned prior to the date of the agreement, shall be irrevocable as to Salary Reduction Contributions made while the agreement is in effect, and shall remain in effect until the earlier of (a) the date that the salary reduction agreement is modified or revoked pursuant to this Section 4.1, or (b) the earliest date that the Participant is no longer an Eligible Employee pursuant to Section 2.12.

An Active Participant who previously authorized the Employer to make Salary Reduction Contributions on his behalf may modify, cease or resume those contributions by completing a new salary reduction agreement. A Participant's salary reduction agreement modifying, ceasing or resuming Salary Reduction Contributions shall take effect as soon as reasonably practicable as of the first day of a pay period beginning on or after the later of (a) the date specified in the salary reduction agreement, or (b) the date that the salary reduction agreement is received by the Employer. A Participant's salary reduction agreement modifying, ceasing or resuming Salary Reduction Contributions may not be made retroactively, shall not be applied retroactively to compensation earned prior to the date of the agreement, shall be irrevocable as to Salary Reduction Contributions made while the agreement is in effect, and shall remain in effect until the earlier of (a) the date that the salary reduction agreement is modified or revoked pursuant to this Section 4.1, or (b) the earliest date that the Participant is no longer an Eligible Employee pursuant to Section 2.12.

Any Salary Reduction Contributions made on behalf of an Active Participant shall be remitted to the Appendix A Part I Contract(s) chosen by that Participant and allocated to his Accounts in accordance with his directions and the terms of the affected Annuity Contract(s).

4.2 Limits on Salary Reduction Contributions

Salary Reduction Contributions on behalf of a Participant for a taxable year shall not exceed the maximum amount permitted below:

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- a) **Basic Annual Limitation.** Except as provided in subsections (b) and (c) below, the maximum amount of the Salary Reduction Contributions under the Plan for any taxable year shall not exceed the "Applicable Dollar Amount" for that year. The Applicable Dollar Amount is the amount established under Section 402(g) (1) (B) of the Code, which is \$15,500 for taxable years beginning in 2008 and is adjusted for cost-of-living after 2008 to the extent provided under Section 415(d) of the Code.
- b) **Special Section 403(b) Catch-Up for Employees with 15 Years of Service.** If the Employer is a "qualified organization" described in Section 1.403(b)-4(c)(3)(ii) of the Treasury Regulations, the Applicable Dollar Amount under Section 4.2(a) for any "qualified employee" is increased by the least of:
- (1) \$3,000; or
 - (2) The excess of:
 - A. \$15,000, over
 - B. The total special 403(b) catch-up elective deferrals made for the qualified employee by the qualified organization for prior years; or
 - (3) The excess of:
 - A. \$5,000 multiplied by the number of years of service of the employee with the qualified organization, over
 - B. The total Salary Reduction Contributions made for the employee by the qualified organization.
- For purposes of this Section 4.2(b), a "qualified employee" means an employee who has completed at least 15 years of service taking into account only employment with the Employer.
- For purposes of this Section 4.2(b), a "year of service" means a year described in Sections 1.403(b)-2(b)(21) and 1.403(b)-4(e) of the Treasury Regulations.
- c) **Age 50 Catch-Up Contributions.** A Participant who will attain age 50 or more by the end of a taxable year is permitted to elect an additional amount of Salary Reduction Contributions, up to the maximum amount of Age 50 Catch-Up Contributions permitted for the year. The maximum dollar amount of Age 50 Catch-Up Elective Contributions is \$5,000 for taxable years beginning in 2008 and is adjusted for cost-of-living after 2008 to the extent provided by the Code.
- d) **Coordination of Limits.** Amounts in excess of the limitation set forth in Section 4.2(a) shall be allocated first to the Special Section 403(b) Catch-Up for Employees with 15 Years of Service under Section 4.2(b) and next as Age 50 Catch-Up Contributions under Section 4.2(c).
- e) **Special Rule for a Participant Covered by Another Plan.** For purposes of this Section 4.2, if the Participant is or has been a Participant in one or more other plans under Section 403(b) of the Code (or any other plan that permits elective deferrals under Section 402(g) of the Code), then this Plan and all such other plans shall be considered as one plan for purposes of applying the foregoing limitations of this Section 4.2. For this purpose, the Administrator shall take into account any other such plan for which the Administrator received from the Participant sufficient information concerning his participation in such other plan. Notwithstanding the foregoing, another plan maintained by an employer that is aggregated with the Employer under Section 414(b), (c), (m) or (o) of the Code and Section 1.414(c)-5 of the Treasury Regulations shall be taken into account for purposes of Section 4.2(b) only if the other plan is a Section 403(b) plan.

- f) **Protection of Persons Who Serve in a Uniformed Service.** An Employee whose employment is interrupted by qualified military service under Section 414(u) of the Code or who is on a leave of absence for qualified military service under Section 414(u) of the Code may elect to make additional Salary Reduction Contributions upon resumption of employment with the Employer equal to the maximum Salary Reduction Contributions that the Employee could have elected during that period if the Employee's employment with the Employer had continued (at the same level of compensation) without the interruption or leave, reduced by the Salary Reduction Contributions, if any, actually made for the Employee during the period of the interruption or leave. Except to the extent provided under Section 414(u) of the Code, this right applies for five years following the resumption of employment (or, if sooner, for a period equal to three times the period of the interruption or leave).
- g) **Correction of Excess Salary Reduction Contributions.** Notwithstanding any other provision of the Plan, Excess Salary Reduction Contributions, plus any income and minus any loss allocable thereto, shall be distributed to any Participant to whose Accounts Excess Salary Reduction Contributions were assigned for a taxable year and who claims Excess Salary Reduction Contributions for such taxable year no later than the first April 15 following the close of that taxable year. Any corrective distribution to a Participant required under this Section shall be withdrawn from his Salary Reduction Contribution Account(s) determined in accordance with the terms of the affected Annuity Contract(s).
- (1) **Determination of Income or Loss:** Excess Salary Reduction Contributions shall be adjusted for any income or loss up to the date of distribution. The income or loss allocable to Excess Salary Reduction Contributions is the sum of:
- A. income or loss allocable to the Participant's Employee Contribution Account for the taxable year multiplied by a fraction, the numerator of which is such Participant's Excess Salary Reduction Contributions for the year and the denominator is the Participant's Account balance attributable to Excess Salary Reduction Contributions without regard to any income or loss occurring during such taxable year; and
 - B. 10% of the amount determined under (A) above, multiplied by the number of whole taxable months between the end of the Participant's taxable year and the date of distribution, counting the month of distribution, if distribution occurs after the 15th day of the month.
- (2) **Definitions:**
- A. "Salary Reduction Contributions" shall mean any Salary Reduction Contributions made to the Plan on behalf of the Participant in lieu of cash compensation under Section 4.1 and shall include contributions made pursuant to a salary reduction agreement or other deferral mechanism. With respect to any taxable year, a Participant's Salary Reduction Contributions are the sum of all contributions made on behalf of such Participant pursuant to an election to defer under any qualified plan described in Section 401(k) of the Code; any simplified employee pension cash or deferred arrangement as described in Section 408(k)(6) of the Code, any Simple IRA plan under Section 408(p) of the Code, any plan as described under Section 501(c)(18) of the Code, and any contributions made on behalf of a Participant for the purchase of an Annuity Contract under Section 403(b) of the Code pursuant to a salary reduction agreement. Salary Reduction Contributions shall not include any deferrals properly distributed as Excess Annual Additions under Section 4.3(b).
 - B. "Excess Salary Reduction Contributions" shall mean a Participant's Salary Reduction Contributions for a taxable year that exceed the limitations under this Section 4.2 for

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such year. Excess Salary Reduction Contributions shall be treated as Annual Additions under Section 4.3(c)(1), unless such amounts are distributed no later than the first April 15 following the close of the Participant's taxable year.

A Participant may assign to this Plan any Excess Salary Reduction Contributions made during a taxable year of the Participant by notifying the Administrator in writing of the amount of the Excess Salary Reduction Contributions to be assigned on or before the first March 15 following the close of that taxable year. A Participant is deemed to notify the Administrator of any Excess Salary Reduction Contributions that arise by taking into account only those Salary Reduction Contributions made to this Plan and other plans of the Employer.

4.3 Overall Limit on Contributions

- a) Maximum Permissible Amount. In no event shall contributions be allocated to a Participant's Accounts resulting in an Annual Addition to such Accounts for any Limitation Year in excess of the "Maximum Permissible Amount" permitted by Section 415 of the Code and described below:

Except as provided by Section 414(v) of the Code, the Maximum Permissible Amount is the lesser of (1) or (2) below:

- (1) \$40,000, as adjusted for increases in the cost of living under Section 415(d) of the Code; or
- (2) 100% of that Participant's Includible Compensation for such Limitation Year.

The compensation limitation referred to in (2) shall not apply to any contribution for medical benefits (within the meaning of Section 401(h) or Section 419A(f)(2) of the Code) which is otherwise treated as an Annual Addition under Section 415(l)(1) or Section 419A(d)(2) of the Code.

However, a Participant may elect to have his Maximum Permissible Amount determined under Section 415(c)(7) of the Code if his Employer is a church organization subject to that Code Section. Under Section 415(c)(7)(A) of the Code, a Participant may elect a Maximum Permissible Amount of up to \$10,000 per Limitation Year until the Annual Additions received due to that election total \$40,000. Under Section 415(c)(7)(C) of the Code, a Participant performing services for a church organization outside of the United States may elect a Maximum Permissible Amount of \$3,000 per Limitation Year if his adjusted gross income (determined separately and without regard to community property laws) does not exceed \$17,000.

Any contribution made on behalf of a Participant who is reemployed after a period of military service in accordance with Section 414(u) of the Code shall comply with the contribution limit in effect for the Limitation Year to which that contribution relates, rather than the Limitation Year in which that contribution is made.

If a short Limitation Year is created by an amendment changing the Limitation Year to a different twelve-consecutive-month period, the Maximum Permissible Amount for that short Limitation Year shall be adjusted according to this paragraph. The dollar limitation in (1) shall be reduced by a fraction, the denominator of which is 12 and the numerator of which is the number of months (including any fractional month) in the short Limitation Year. The Compensation limitation in (2) shall be based only on Includible Compensation for the short Limitation Year.

Before the Participant's actual Includible Compensation for any Limitation Year is determined for purposes of this Section 4.3, the Maximum Permissible Amount may be determined on the basis of the Participant's estimated Includible Compensation for such Limitation Year. Such estimated Includible Compensation shall be determined on a reasonable basis and shall be uniformly determined for all Participants similarly situated.

As soon as is administratively feasible after the end of the Limitation Year, the Maximum Permissible Amount for such Limitation Year shall be determined on the basis of the Participant's actual Includible Compensation for such Limitation Year.

If so required by Section 415 of the Code and applicable regulations, a Participant's Annual Additions under this Plan shall be aggregated with his Annual Additions under another retirement plan for purposes of determining the Maximum Permissible Amount. Any Excess Annual Additions resulting from the aggregation of this Plan with another plan will be allocated between these plans so as to maximize the total benefits payable to the Participant from both plans.

- b) Correction of Excess Annual Additions. Any Excess Annual Additions with respect to a Participant for a Limitation Year shall be allocated to a separate account described in Section 72 of the Code and distributed to him as soon as administratively possible in accordance with the terms of the Annuity Contract to which that excess amount was allocated.
- c) Definitions. For purposes of this Section 4.3:
 - (1) The term "Annual Additions" means the sum of:
 - A. all Employer contributions, including Employer contributions to a simplified employee pension (whether or not under a salary reduction agreement);
 - B. all Salary Reduction Contributions and Employee contributions (but not Rollover Contributions described in Section 6.1 or Catch-up Contributions described in Section 4.2(c) and Section 414(v) of the Code);
 - C. forfeitures; and
 - D. amounts allocated, after March 31, 1984, to an individual medical account, as defined in Section 415(l)(2) of the Code, which is part of a pension or annuity plan maintained by the Employer and amounts derived from contributions paid or accrued after December 31, 1985, in taxable years ending after such date, which are attributable to post-retirement medical benefits allocated to the separate account of a Key Employee, as defined in Section 419A(d)(3) of the Code, under a welfare benefit fund, as defined in Section 419(e) of the Code, maintained by the Employer.
 - (2) The term "Excess Annual Addition" means the excess of a Participant's Annual Additions for a Limitation Year over the Maximum Permissible Amount for that year.
 - (3) The term "Limitation Year" means a calendar year unless the Participant chooses another twelve-consecutive-month period in accordance with applicable Treasury Regulations. However, if Annual Additions under this Plan must be aggregated with Annual Additions under another retirement plan, the Limitation Year under this Plan shall be the same as the Limitation Year under the other plan if so required by applicable Treasury Regulations.

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Section 5 Accounts and Investments

5.1 Funding Policy

All funds held on behalf of a Participant under this Plan shall be invested in one or more Annuity Contract(s) in accordance with the Participant's directions and terms of those Contract(s). The Issuer of each Annuity Contract shall maintain Individual Accounts, Contribution Accounts, and any other accounts necessary for the proper administration of the Plan.

5.2 Individual Accounts

The Issuer of each Annuity Contract shall maintain individual Accounts reflecting the funds allocated on behalf of each Participant who has invested in that Contract. Each individual Account shall reflect (a) the total amount of contributions, transfers and other additions that are allocated to such Account on the Participant's behalf and the earnings thereon, (b) any payments or withdrawals on the Participant's behalf from such Accounts, and (c) any expenses of such Accounts attributable to the Participant's interest therein.

5.3 Contribution Accounts

The Issuer of each Annuity Contract shall maintain contribution Accounts on behalf of each Participant who has invested in that Contract reflecting the portion of his individual Account that is attributable to his Salary Reduction Contributions, Rollover Contributions (if any), and Excess Annual Additions (if any).

5.4 Investment Alternatives

Each Annuity Contract shall provide for one or more investment alternatives. Any Participant who invests in an Annuity Contract may choose which investment alternative(s) his contributions will be allocated to, and elect to transfer funds from one investment alternative under that Contract to another, in accordance with the terms of that Contract.

Section 6 Rollovers and Transfers

6.1 Rollovers to the Plan

This Plan will accept the following Rollover Contributions on behalf of any Participant to any Appendix A Part I or Appendix A Part II Contract selected by the Participant that permits such contributions:

- (a) An Eligible Rollover Distribution from an arrangement described in Section 403(b) of the Code.
- (b) An Eligible Rollover Distribution from an individual retirement account or annuity described in Section 408(a) or (b) of the Code.
- (c) An Eligible Rollover Distribution from a qualified plan described in Section 401(a) or 403(a) of the Code.
- (d) A repayment of a "qualified hurricane distribution" in accordance with Section 1400Q(a) of the Code.

Any rollover accepted must be in cash, a check drawn on a U.S. bank, or other property acceptable to the Issuers of the affected Annuity Contracts. The Administrator and the Issuers of the affected Annuity Contracts shall have the authority to determine whether a proposed rollover satisfies the requirements of this Section and applicable law. The Administrator and the Issuers of the affected Annuity Contracts may require such information and establish such procedures as they may deem appropriate to assure that all Rollover Contributions accepted by this Plan comply with the applicable law and Annuity Contract provisions, including corrective distributions of invalid rollovers and earnings thereon. Any Rollover Contributions accepted on behalf of a Participant will be allocated to the Rollover Contribution Accounts maintained for that Participant under the affected Annuity Contracts.

6.2 Rollovers from the Plan

Any Participant or other Distributee who is entitled to a withdrawal from his Accounts in accordance with Section 9 may elect to have the proceeds paid to another retirement plan on his behalf as a Direct Rollover, subject to the following conditions:

(a) Election of Direct Rollover

Except as provided below, any Distributee who is entitled to an Eligible Rollover Distribution from an Annuity Contract under this Plan may elect to forgo receipt of any portion of that distribution and direct the Administrator and the Issuer of the affected Annuity Contract to pay such amount on his behalf to an Eligible Retirement Plan as a Direct Rollover. However:

- (1) Forms. An election to have all or a part of an Eligible Rollover Distribution paid as a Direct Rollover must be made in writing on a form provided by the Administrator or the Issuer of the affected Annuity Contract.
- (2) Small Distributions. No portion of a Distributee's Eligible Rollover Distribution may be paid as a Direct Rollover unless that distribution, plus all other Eligible Rollover Distributions payable to that Distributee during the same calendar year, may be reasonably expected to have a total value of at least \$200.

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(3) Partial Rollovers. No amount less than \$500 may be paid as a Direct Rollover unless it represents the total value of an Eligible Rollover Distribution.

(4) Single Eligible Retirement Plan. All Direct Rollovers attributable to the same Eligible Rollover Distribution must be paid to the same Eligible Retirement Plan.

(b) Notice

Any Distributee who is entitled to an Eligible Rollover Distribution from this Plan shall be notified of his right to have it paid to an Eligible Retirement Plan on his behalf as a Direct Rollover. This notice shall be provided in writing by the Administrator. If an Eligible Rollover Distribution is payable in the form of a non-periodic payment, this notice shall be provided at least 30 days but not more than 180 days before that payment is made. If a series of periodic Eligible Rollover Distributions is payable, this notice shall be provided at least 30 days but not more than 180 days before the first payment is made and at least once every calendar year thereafter, until payments cease. However, an Eligible Rollover Distribution may be paid less than 30 days after the Distributee has been notified of his Direct Rollover rights if the Distributee so elects.

(c) Definitions

For the purpose of this Section 6.2, the following terms have the following meanings:

(1) "Direct Rollover" means the payment by the Plan of all or a part of an Eligible Rollover Distribution to an Eligible Retirement Plan selected by the Distributee.

(2) "Distributee" means any of the following payees:

(A) A Participant; or

(B) The surviving spouse of a Participant; or

(C) A spouse or former spouse of a Participant who is entitled to a distribution from this Plan under a qualified domestic relations order, as defined in Section 414(p) of the Code.

(3) "Eligible Retirement Plan" means any of the following plans:

(A) An individual retirement arrangement described in Section 408 of the Code; or

(B) A defined contribution plan that is either a qualified trust described in Section 401(a) of the Code or a qualified annuity described in Section 403(a) of the Code; or

(C) An Annuity Contract described in Section 403(b) of the Code; or

(D) An eligible plan described in Section 457(b) of the Code that is maintained by a state, a political subdivision of a state, or any agency or instrumentality of a state or a political subdivision of a state, and agrees to separately account for amounts transferred to that plan from this Plan; or

(E) A Roth individual retirement arrangement described in Section 408A of the Code.

- (4) "Eligible Rollover Distribution" means any distribution of all or a part of a Distributee's benefit under this Plan except any of the following distributions:
- (A) Any distribution that is one of a series of substantially equal periodic payments payable no less frequently than annually over the life (or life expectancy) of the Distributee or the joint lives (or joint life expectancies) of the Distributee and his Beneficiary; or
 - (B) Any distribution that is one of a series of substantially equal periodic payments payable no less frequently than annually over a specified period of 10 years or longer; or
 - (C) Any distribution that is required under Section 10.5 of the Plan and Section 401(a)(9) of the Code; or
 - (D) Any Hardship distribution pursuant to Sections 9.1(f) and 9.4 from any of the Distributee's Accounts; or
 - (E) Any other distribution designated by the Commissioner in regulations, revenue rulings, notices and other guidance of general applicability.

(d) Nonspouse Rollovers

Any Beneficiary who is entitled to a distribution from this Plan may elect to forgo receipt of any portion of that distribution and direct the Administrator and the Issuer of the affected Annuity Contract to pay such amount on his behalf to an individual retirement arrangement described in Section 408 of the Code that provides for the acceptance of such transfers if all of the following conditions are satisfied:

- (1) The Beneficiary is a Designated Beneficiary described in Section 401(a)(9)(E) of the Code.
- (2) The Beneficiary is not a Distributee.
- (3) The distribution would have been an Eligible Rollover Distribution if it had been payable to a Distributee. For this purpose, the portion of the distribution (if any) that is not eligible for rollover because it is a required minimum distribution described in Section 401(a)(9) of the Code shall be determined in accordance with IRS Notice 2007-7 and any subsequent guidance.
- (4) The individual retirement arrangement that accepts the transfer satisfies the requirements for an inherited IRA described in Section 402(c)(11) of the Code.

6.3 Transfers to the Plan

This Plan will accept a transfer of funds on behalf of any Participant from any arrangement described in Section 403(b) of the Code to any Appendix A Part I or Appendix A Part II Contract selected by the Participant if all of the following conditions are satisfied:

- (a) The transferor arrangement permits such transfers.
- (b) The transferee Annuity Contract provides for the acceptance of such transfers.

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8.6 Spousal Consent

If this Plan is subject to ERISA, any prospective borrower who is married shall be required to obtain and deliver to the Administrator the consent of the borrower's Eligible Spouse for the use of the borrower's Accounts as collateral. Such consent must be given within the 180-day period before the loan is secured. The consent must be given in writing, must acknowledge the effect of the loan and must be witnessed by the Administrator, another Plan representative or a notary public. Such consent is irrevocable and shall thereafter be binding upon the consenting Eligible Spouse or any subsequent spouse with respect to that loan. A new consent shall be required if the borrower's Accounts are used as collateral for the renegotiation, extension, renewal or other modification of the loan.

8.7 Expenses

Any expenses incurred in connection with the approval, administration or collection of a loan to a Participant or Beneficiary shall be charged to the borrower.

8.8 Repayment Schedule

The Administrator and the Issuer(s) of the affected Annuity Contract(s) shall specify the repayment schedule for each loan at the time that it is approved.

The term specified for the repayment of the loan shall be a reasonable period of time not to exceed ten years if the loan is used to acquire a dwelling unit that is to be used as a principal residence of the borrower within a reasonable period of time. The term specified for the repayment of a loan used for any other purpose shall be a reasonable period of time not to exceed five years.

The borrower must agree to repay the loan to the Plan in substantially equal installments of principal and interest, payable no less frequently than quarterly, resulting in level amortization over the term of the loan. Loans may be fully or partially prepaid at any time without penalty.

8.9 Repayment Procedures

Loan repayments shall be made to the Issuer(s) of the Annuity Contract(s) that were pledged as collateral for the loan in accordance with Section 8.5. If the borrower is actively employed by the Employer, repayments may be made through payroll deduction.

8.10 Default

The total amount of any borrower's outstanding loan balance plus interest shall become payable in full on the earliest of:

- a) The day that the borrower dies;
- b) The Benefit Commencement Date as of which the borrower begins to receive his entire Account balance pursuant to Plan Section 9.1;
- c) The first business day following the expiration of the due date, inclusive of any grace periods, for any required loan repayment installment that is not paid in full; or

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- d) The date that the Plan (or the portion of the Plan affecting the borrower) is terminated under Section 13.2.

8.11 Effect of Default

If a borrower defaults on a loan from the Plan, the value of his Accounts pledged as security for that loan under subsection 8.5 above shall be reduced by his outstanding loan balance plus interest. However, this reduction shall not occur before the earliest date that the borrower is entitled to a distribution from the Plan.

Section 9 Withdrawals

9.1 Conditions

Subject to the terms of the affected Annuity Contracts, a Participant may withdraw funds from any of his Accounts under the Plan for any of the following reasons:

- a) Severance of Employment. The total balance of a Participant's Accounts shall be payable upon his severance of employment with the Employer.
- b) Death. The total balance of a Participant's Accounts shall be payable upon his death.
- c) Disability. A Participant who suffers a Disability may withdraw the total balance of his Accounts.
- d) Age 59½. A Participant who has attained age 59½ may withdraw the total balance of his Accounts.
- e) Plan Termination. The total balance of a Participant's Accounts shall be payable upon the termination of this Plan in accordance with Section 13.2.
- f) Hardship. A Participant who experiences a Hardship described in Section 9.4 may withdraw the total balance of his Accounts (except for any earnings allocated to his Salary Reduction Contribution Accounts after the close of the last taxable year beginning before January 1, 1989).
- g) Other Reasons. A Participant may withdraw funds from his Accounts at any time for any reason provided that the amount distributed does not exceed the sum of:
 - (1) His Rollover Contribution Accounts; and
 - (2) The total amount allocated to his Salary Reduction Accounts as of the close of the last taxable year beginning before January 1, 1989.

9.2 Source of Withdrawals

Any distribution under this Section 9 will be withdrawn from the Account(s) and Annuity Contract(s) specified by the Participant, subject to the terms of the affected Annuity Contract(s).

9.3 Withdrawal Procedures

The Administrator shall have the sole discretionary authority to determine whether a Participant satisfies the requirements for a withdrawal under this Section 9.

Any request for a withdrawal pursuant to this Section 9 shall be made in writing by the Participant to the Administrator at such time, in such manner, and on such form as may be prescribed by the Administrator. The Administrator may prescribe rules and procedures governing such requests, including a dollar minimum and/or dollar maximum on the amount that may be withdrawn. Any request for a withdrawal shall comply with the spousal consent requirement of Section 10.1(e) (if applicable), the Participant consent requirements of Sections 10.3 and 10.4 (if applicable), and the terms of the Annuity Contract from which the withdrawal will be made.

Any amount withdrawn shall be paid in accordance with Section 10.

9.4 Hardship

A Participant shall be permitted to make a withdrawal due to Hardship pursuant to Section 9.1(f) only if all of the following conditions are satisfied:

(a) Immediate and Heavy Financial Need

The Administrator determines that the Participant needs the withdrawal to pay one of the following expenses:

- (1) The cost of medical care (as defined in Section 213(d) of the Code) for the Participant, the Participant's Eligible Spouse or any of his dependents.
- (2) Tuition and related educational fees for the next twelve months of post-secondary education for the Participant, the Participant's Eligible Spouse, or any of his dependents.
- (3) Expenses directly related to the purchase of a principal residence for the Participant (excluding mortgage payments except as provided below).
- (4) Payments necessary to prevent the eviction of the Participant from his principal residence or foreclosure on the mortgage on that residence.
- (5) Expenses for the repair of damage to the Participant's principal residence that would qualify for the casualty loss deduction under Section 165 of the Code, determined without regard to whether the loss exceeds 10% of adjusted gross income.
- (6) Funeral expenses for the Participant's deceased parent, spouse, child or dependents as defined in Section 152 of the Code, determined without regard to Section 152(d)(1)(B) of the Code.
- (7) Any expense described in paragraph (1), (2) or (6) above for a Beneficiary who is entitled to receive all or part of a Participant's Accounts in the event of the Participant's death in accordance with Section 2.8.
- (8) Any other expense specified by the Internal Revenue Service in a regulation, revenue ruling notice or other document of general applicability.

(b) Exhaustion of Other Resources

The Administrator determines that the Participant has already obtained all nontaxable loans and all distributions (other than Hardship withdrawals) currently available under all plans maintained by the Employer.

(c) Amount of Withdrawal

The Administrator determines that the amount that the Participant wishes to withdraw does not exceed the amount necessary to pay the expenses described in Subsection (a) above, including the amount necessary to pay any federal, state or local income taxes or penalties reasonably anticipated to result from the withdrawal.

(d) Suspension of Salary Reduction Contributions

As soon as reasonably practicable after receipt of his Hardship withdrawal, the Participant

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ceases all Employee contributions and elective deferrals to all plans maintained by the Employer (including Salary Reduction Contributions under Section 4.1) for a period of at least six consecutive months, except as provided by Treasury Regulations.

Section 10 Methods of Payment

10.1 Distributions to Participants

- a) In General. Except as otherwise provided in this Section 10, any distribution to a Participant shall be paid under any method of payment selected by the Participant and permitted by the affected Annuity Contract(s).
- b) Joint and Survivor Annuity Requirements. If the Plan is subject to ERISA, any distribution to a Participant shall be paid in the form of a Qualified Joint and Survivor Annuity unless Section 10.1(g) applies, or an Optional Form of Benefit is selected pursuant to a Qualified Election within the 180-day period ending on the Benefit Commencement Date as of which that distribution is paid.
- c) For purposes of this Section 10.1, a "Qualified Joint and Survivor Annuity" means:
 - (1) In the case of a married Participant, an immediate Joint and Survivor with Period Certain and Continuous Annuity for the life of the Participant with a survivor annuity for the life of his Eligible Spouse equal to 66% of the amount of the annuity that is payable during the joint lives of the Participant and the Eligible Spouse, with 120 monthly payments guaranteed, which can be purchased with the Participant's Accounts. In addition, if both the Participant and the Eligible Spouse die within the 120-month-guarantee period, then the benefit being paid to the last survivor of the two shall be continued to the Beneficiary for the balance of the period.
 - (2) In the case of an unmarried Participant, an immediate Non-Refund Life Annuity for the life of the Participant, with no further benefit payments payable after his death.
- d) For purposes of this Section 10.1, an "Optional Form of Benefit" means either (1) or (2) below:
 - (1) An immediate Joint and Survivor with Period Certain and Continuous Annuity for the life of the Participant with a survivor annuity for the life of his Eligible Spouse equal to 75% of the amount of the annuity that is payable during the joint lives of the Participant and the Eligible Spouse, with no monthly payments guaranteed, which can be purchased with the Participant's Accounts. If the Participant dies and his Eligible Spouse does not survive him, no further benefits will be payable.
 - (2) Any other method of payment permitted under the Annuity Contract from which the Participant's withdrawal is distributed.
- e) For purposes of this Section 10.1, a "Qualified Election" means a waiver of a Qualified Joint and Survivor Annuity. Any waiver of a Qualified Joint and Survivor Annuity shall not be effective unless: (A) the Participant's Eligible Spouse consents in writing to the election; (B) the election designates a specific Beneficiary, including any class of Beneficiaries or any contingent Beneficiaries, that may not be changed without spousal consent, or the Eligible Spouse expressly permits designations by the Participant without any further spousal consent; (C) the Eligible Spouse's consent acknowledges the effect of the election; and (D) the Eligible Spouse's consent is witnessed by the Administrator, another Plan representative or a notary public. Additionally, a Participant's waiver of the Qualified Joint and Survivor Annuity shall not be effective unless the election designates a form of benefit payment that may not be changed without spousal consent (or the Eligible Spouse expressly permits designations by the Participant without any further spousal consent). If it is established to the satisfaction of the Administrator or another Plan representative that there is no Eligible Spouse or that the Eligible Spouse cannot be located, a waiver shall be deemed a Qualified Election, notwithstanding there is no consent by the Eligible Spouse.

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Any consent by an Eligible Spouse obtained under this provision (or establishment that the consent of an Eligible Spouse may not be obtained) shall be effective only with respect to such Eligible Spouse. A consent that permits designations by the Participant without any requirement of further consent by such Eligible Spouse must acknowledge that the Eligible Spouse has the right to limit consent to a specific Beneficiary, and a specific form of benefit where applicable, and that the Eligible Spouse voluntarily elects to relinquish either or both of such rights. A revocation of a prior waiver may be made by a Participant without the consent of the Eligible Spouse at any time before the commencement of benefits. The number of revocations shall not be limited. No consent obtained under this provision shall be valid unless the Participant has received notice as provided by Section 10.1(f) of this Plan.

f) Notice Requirements.

In the case of a Qualified Joint and Survivor Annuity, the Administrator shall no less than 30 days and no more than 180 days before a Benefit Commencement Date provide each Participant a written explanation of (1) the terms and conditions of a Qualified Joint and Survivor Annuity; (2) the Participant's right to make, and the effect of an election to waive, the Qualified Joint and Survivor Annuity form of benefit; (3) the rights of a Participant's Eligible Spouse; and (4) the right to make, and the effect of, a revocation of a previous election to waive the Qualified Joint and Survivor Annuity.

However, a distribution may be made or commenced less than 30 days after this notice is given pursuant to an affirmative election of the Participant, with the consent of his Eligible Spouse if applicable, provided (a) the Administrator informs the Participant that he has a right to at least 30 days to consider whether to waive the Qualified Joint and Survivor Annuity; (b) the Participant is permitted to revoke the affirmative distribution election at any time prior to the Benefit Commencement Date or, if later, the eighth day following the date the notice was provided; and (c) either the Benefit Commencement Date is after the date the notice was provided to the Participant, or distribution is not made or commenced until after the seventh day following the date the notice was given to the Participant.

Notwithstanding the foregoing, only the Participant must consent to a distribution in the form of a Qualified Joint and Survivor Annuity. Neither the consent of the Participant nor the Eligible Spouse is required for a distribution to the extent it is required to satisfy Code Sections 401(a)(9), 402(g) or 415, or any other corrective distribution made in accordance with applicable provisions of the Code or Treasury Regulations issued under the Code.

g) Small Benefit Payments

If the value of a Participant's Accounts (including his Rollover Account, if any) is not greater than \$1,000 (or such greater amount as may be permitted by law) when he terminates service or subsequently applies for a distribution, the Participant shall receive a distribution of the entire value of such Accounts in a single sum. However, no distribution shall be made pursuant to the preceding sentence after the first day of the first period for which an amount is received in the form of an annuity or other periodic payments unless the Participant and his Eligible Spouse consent in writing to such distribution.

10.2 Death Benefit

- a) In General. If a Participant dies before the Benefit Commencement Date as of which the total value of his Accounts is distributed, 100% of the value of his Accounts shall become payable to the Beneficiary chosen by the Participant at any time and in accordance with any method of payment permitted by the affected Annuity Contracts, except as provided by Section 10.2(b) below and Section 10.5.

- b) Automatic Beneficiary Designation. If the Plan is subject to ERISA, and if the Participant is married at the time of his death, his Beneficiary shall be his Eligible Spouse unless he designated a different Beneficiary in accordance with this Section 10.2(b).

A Participant may not designate a Beneficiary other than his Eligible Spouse without the consent of his Eligible Spouse unless it is established to the satisfaction of the Administrator or other Plan representative that the Participant has no Eligible Spouse or that his Eligible Spouse cannot be located. A former spouse of a Participant may not consent to the designation of a Beneficiary by that Participant if that Participant is married to another person on his date of death.

A Participant's designation of a Beneficiary must satisfy (1) and (3) of the following, and his Eligible Spouse's consent, if required, must satisfy all of the following: it must be (1) in writing; (2) witnessed by the Administrator, another Plan representative or a notary public; (3) identify the Beneficiary other than his Eligible Spouse who shall receive the death benefit; and (4) acknowledge the effect of the designation. An Eligible Spouse may provide a general consent authorizing the Participant to appoint any Beneficiary (or any member of a specified class of Beneficiaries) without obtaining further spousal consent. However, such a general consent must specifically state that the Eligible Spouse has the right to limit consent to a specific Beneficiary and has voluntarily elected to relinquish that right.

A Participant's appointment of a Beneficiary (and his Eligible Spouse's consent, if required) must be made (and may be revoked) at any time during an election period that begins on the day that the Participant becomes a Participant and ends on the Participant's date of death. However, a designation of a Beneficiary made before the first day of the Plan Year in which the Participant attains age 35 shall become invalid on that date.

The Administrator shall provide each Participant with a written explanation of the death benefit comparable to the written explanation of the Qualified Joint and Survivor Annuity described in Section 10.1(f). Except as provided below, this explanation of the death benefit shall be furnished to the Participant within the period described in (I) or (II) below, whichever ends last:

- I. The period beginning on the first day of the Plan Year in which the Participant attains age 32 and ending on the last day of the Plan year in which he attains age 34, or
- II. The period beginning on the day that the Participant becomes a Participant and ending on the first anniversary of that date.

However, a Participant who terminates his employment with the Employer before his 35th birthday must receive the written explanation of the death benefit within the period beginning one year before, and ending on the first anniversary of the date his employment terminated.

10.3 Commencement of Benefits

- a) If the Plan is subject to ERISA, a Participant's Accounts may not be distributed prior to his Normal Retirement Age without his consent (or the consent of his Eligible Spouse) except as provided in Section 10.4.
- b) The distribution of a Participant's Accounts shall commence no later than the earlier of (1) or (2) below:
 - (1) The latest date permitted under Section 40.5, whether or not the Plan is subject to ERISA.

- (2) If the Plan is subject to ERISA, the 60th day after the close of the Plan Year in which the latest of the following events occurs (unless the Participant or his Beneficiary elects otherwise):
- (A) The Participant attains Normal Retirement Age,
 - (B) The 10th anniversary of the year that the Participant commenced participation in the Plan, or
 - (C) the Participant terminates employment with the Employer.

For this purpose, the Participant (or his Beneficiary) shall be deemed to have elected to postpone benefit commencement if he fails to consent to a distribution.

10.4 Restrictions on Immediate Distributions

If the Plan is subject to ERISA, and if the value of a Participant's Accounts exceeds (or at the time of any prior distribution exceeded) \$1,000 (or such greater amount that may be permitted by the Code), and the Accounts are immediately distributable, the Participant and the Participant's Eligible Spouse (or where either the Participant or the Eligible Spouse has died, the survivor) must consent to any distribution of such accounts. The consent of the Participant and the Eligible Spouse shall be obtained in writing within the 180-day period ending on the Benefit Commencement Date. The Administrator shall notify the Participant and the Eligible Spouse of the right to defer any distribution until the Participant's accounts are no longer immediately distributable. Such notification shall include a general description of the material features, and an explanation of the relative values of, the optional forms of benefit available under the Plan in a manner that would satisfy the notice requirements of Code Section 417(a)(3), and shall be provided no less than 30 days and no more than 180 days before the Benefit Commencement Date. However, a distribution may commence less than 30 days after this notice is provided if the requirements of the second paragraph of Section 10.1(f) are satisfied.

Notwithstanding the foregoing, only the Participant need consent to the commencement of a distribution in the form of a Qualified Joint and Survivor Annuity while the accounts are immediately distributable. (Furthermore, if payment in the form of a Qualified Joint and Survivor Annuity is not required with respect to the Participant pursuant to Section 10.1 of the Plan, only the Participant need consent to the distribution of the accounts that are immediately distributable.) Neither the consent of the Participant nor the Eligible Spouse shall be required to the extent that a distribution is required to satisfy Code Sections 401(a)(9), 402(g) or 415, or any other corrective distribution made in accordance with applicable provisions of the Code or Treasury Regulations issued under the Code.

An Account is immediately distributable if any part of the Account could be distributed to the Participant (or Eligible Spouse) before the Participant attains (or would have attained, if not deceased) the later of Normal Retirement Age or age 62.

10.5 Minimum Distribution Requirements

(a) General Rules

- (1) Precedence. The requirements of this Section 10.5 shall apply to any distribution of a Participant's Accounts and will take precedence over any inconsistent provisions of the Plan.

- (2) Requirements of Treasury Regulations Incorporated. All distributions required under this Section 10.5 will be determined and made in accordance with the Treasury Regulations under Sections 403(b)(10) and 401(a)(9) of the Code, including the minimum distribution incidental benefit provision of Section 401(a)(9)(G) of the Code.
- (3) Pre-'87 Amount. The requirements of Section 10.5(b), (c) and (d) shall not apply to any Pre-'87 Amount of a Participant's Accounts. The distribution of a Participant's Pre-'87 Amount shall comply with Sections 1.401-1(b)(1)(i) and 1.403(b)-6(e)(6) of the Treasury Regulations.
- (4) Alternate Method. A Participant or Beneficiary shall not be required to receive a distribution from this Plan otherwise required under this Section 10.5 to the extent that the required amount is withdrawn from another arrangement described in Section 403(b) of the Code in accordance with Section 1.403(b)-6(e)(7) of the Treasury Regulations.
- (5) Limits on Distribution Periods. As of the first Distribution Calendar Year, distributions, if not made in a single sum, may only be made over one of the following periods (or a combination thereof):
 - (A) The life of the Participant,
 - (B) The life of the Participant and a Designated Beneficiary,
 - (C) A period certain not extending beyond the Life Expectancy of the Participant, or
 - (D) A period certain not extending beyond the joint and last survivor expectancy of the Participant and a Designated Beneficiary.

(b) Time and Manner of Distributions

- (1) Required Beginning Date. The Participant's entire interest will be distributed, or begin to be distributed, to the Participant no later than the Participant's Required Beginning Date.
- (2) Death of Participant Before Distributions Begin. If the Participant dies before distributions begin, the Participant's entire interest will be distributed, or begin to be distributed, no later than as follows:
 - (A) If the Participant's surviving spouse is the Participant's sole Designated Beneficiary, then, except as provided in Paragraph (C) below, distributions to the surviving spouse will begin by December 31 of the calendar year immediately following the calendar year in which the Participant died, or by December 31 of the calendar year in which the Participant would have attained age 70½, if later.
 - (B) If the Participant's surviving spouse is not the Participant's sole Designated Beneficiary, then, except as provided in Paragraph (C) below, distributions to the Designated Beneficiary will begin by December 31 of the calendar year immediately following the calendar year in which the Participant died.
 - (C) If the Participant's Designated Beneficiary so elects, distributions to the Designated Beneficiary are not required to begin by the date specified in Paragraph (A) or (B) above, but the Participant's entire interest will be distributed to the Designated Beneficiary by December 31 of the calendar year containing the fifth anniversary of the Participant's death. The election must be made no later than the earlier of the end of the calendar year in which distribution would be required to begin under Paragraph (A) or (B) above, or by the end of the calendar year containing the fifth anniversary of the Participant's (or, if applicable, the surviving spouse's) death. If

the Designated Beneficiary fails to make an election under this Paragraph (C), the Participant's entire interest will be distributed no later than December 31 of the calendar year containing the fifth anniversary of the Participant's death, or if later, begin to be distributed by the date specified in Paragraph (A) or (B) above, as applicable.

- (D) If there is no Designated Beneficiary as of September 30 of the year following the year of the Participant's death, the Participant's entire interest will be distributed by December 31 of the calendar year containing the fifth anniversary of the Participant's death.
- (E) If the Participant's surviving spouse is the Participant's sole Designated Beneficiary, and the surviving spouse dies after the Participant but before distributions to the surviving spouse begin, this Section 10.5(b)(2), other than Section 10.5(b)(2)(A), will apply as if the surviving spouse were the Participant.
- (F) For purposes of this Section 10.5(b)(2) and Section 10.5(d), unless Section 10.5(b)(2)(E) applies, distributions are considered to begin on the Participant's Required Beginning Date. If Section 10.5(b)(2)(E) applies, distributions are considered to begin on the date distributions are required to begin to the surviving spouse under Section 10.5(b)(2)(A). If distributions under an annuity purchased from an insurance company irrevocably commence to the Participant before the Participant's Required Beginning Date (or to the Participant's surviving spouse before the date distributions are required to begin to the surviving spouse under Section 10.5(b)(2)(A)), the date distributions are considered to begin is the date distributions actually commence.
- (3) Forms of Distribution. Unless the Participant's interest is distributed in the form of an annuity purchased from an insurance company or in a single sum on or before the Required Beginning Date, as of the first Distribution Calendar Year distributions will be made in accordance with Sections 10.5(c) and (d). If the Participant's interest is distributed in the form of an annuity purchased from an insurance company, distributions thereunder will be made in accordance with the requirements of Sections 403(b)(10) and 401(a)(9) of the Code and the Treasury Regulations.

(c) Required Minimum Distributions During Participant's Lifetime

- (1) Amount of Required Minimum Distribution For Each Distribution Calendar Year. During the Participant's lifetime, the minimum amount that will be distributed for each Distribution Calendar Year is the lesser of:
 - (A) The quotient obtained by dividing the Participant's Account Balance by the distribution period in the Uniform Lifetime Table set forth in Section 1.401(a)(9)-9 of the Treasury Regulations, using the Participant's age as of the Participant's birthday in the Distribution Calendar Year; or
 - (B) If the Participant's sole Designated Beneficiary for the Distribution Calendar Year is the Participant's spouse, the quotient obtained by dividing the Participant's Account Balance by the number in the Joint and Last Survivor Table set forth in Section 1.401(a)(9)-9 of the Treasury Regulations, using the Participant's and spouse's attained ages as of the Participant's and spouse's birthdays in the Distribution Calendar Year.
- (2) Lifetime Required Minimum Distributions Continue Through Year of Participant's Death. Required minimum distributions will be determined under this Section 10.5(c) beginning

with the first Distribution Calendar Year and up to and including the Distribution Calendar Year that includes the Participant's date of death.

(d) Required Minimum Distributions After Participant's Death

(1) Death On or After Date Distributions Begin

(A) Participant Survived by Designated Beneficiary. If the Participant dies on or after the date distributions begin and there is a Designated Beneficiary, the minimum amount that will be distributed for each Distribution Calendar Year after the year of the Participant's death is the quotient obtained by dividing the Participant's Account Balance by the longer of the remaining Life Expectancy of the Participant or the remaining Life Expectancy of the Participant's Designated Beneficiary, determined as follows:

- (i) The Participant's remaining Life Expectancy is calculated using the age of the Participant in the year of death, reduced by one for each subsequent year.
- (ii) If the Participant's surviving spouse is the Participant's sole Designated Beneficiary, the remaining Life Expectancy of the surviving spouse is calculated for each Distribution Calendar Year after the year of the Participant's death using the surviving spouse's age as of the spouse's birthday in that year. For Distribution Calendar Years after the year of the surviving spouse's death, the remaining Life Expectancy of the surviving spouse is calculated using the age of the surviving spouse as of the spouse's birthday in the calendar year of the spouse's death, reduced by one for each subsequent calendar year.
- (iii) If the Participant's surviving spouse is not the Participant's sole Designated Beneficiary, the Designated Beneficiary's remaining Life Expectancy is calculated using the age of the Designated Beneficiary in the year following the year of the Participant's death, reduced by one for each subsequent year.

(B) No Designated Beneficiary. If the Participant dies on or after the date distributions begin, and there is no Designated Beneficiary as of September 30 of the year after the year of the Participant's death, the minimum amount that will be distributed for each Distribution Calendar Year after the year of the Participant's death is the quotient obtained by dividing the Participant's Account Balance by the Participant's remaining Life Expectancy calculated using the age of the Participant in the year of death, reduced by one for each subsequent year.

(2) Death Before Date Distributions Begin

(A) Participant Survived by Designated Beneficiary. Unless the Participant's interest is distributed in accordance with the five-year rule described in Section 10.5(b)(2)(C) above, if the Participant dies before the date distributions begin and there is a Designated Beneficiary, the minimum amount that will be distributed for each Distribution Calendar Year after the year of the Participant's death is the quotient obtained by dividing the Participant's Account Balance by the remaining Life Expectancy of the Participant's Designated Beneficiary, determined as provided in Section 10.5(d)(1).

(B) No Designated Beneficiary. If the Participant dies before the date distributions begin, and there is no Designated Beneficiary as of September 30 of the year following the year of the Participant's death, distribution of the Participant's entire

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interest will be completed by December 31 of the calendar year containing the fifth anniversary of the Participant's death.

- (C) Death of Surviving Spouse Before Distributions to Surviving Spouse Are Required to Begin. If the Participant dies before the date distributions begin, the Participant's surviving spouse is the Participant's sole Designated Beneficiary, and the surviving spouse dies before distributions are required to begin to the surviving spouse under Section 10.5(b)(2)(A), this Section 10.5(d)(2) will apply as if the surviving spouse were the Participant.

(e) Definitions

The following terms as used in this Section 10.5 shall have the following meanings defined:

- (1) "Designated Beneficiary" means the individual who is designated as the Beneficiary under Section 2.8 of the Plan and is the Designated Beneficiary under Section 401(a)(9) of the Internal Revenue Code and Section 1.401(a)(9)-4 of the Treasury Regulations.
- (2) "Distribution Calendar Year" means a calendar year for which a minimum distribution is required. For distributions beginning before the Participant's death, the first Distribution Calendar Year is the calendar year immediately preceding the calendar year containing the Participant's Required Beginning Date. For distributions beginning after the Participant's death, the first Distribution Calendar Year is the calendar year in which distributions are required to begin under Section 10.5(b)(2). The required minimum distribution for the Participant's first Distribution Calendar Year will be made on or before the Participant's Required Beginning Date. The required minimum distribution for other Distribution Calendar Years, including the required minimum distribution for the Distribution Calendar Year in which the Participant's Required Beginning Date occurs, will be made on or before December 31 of that Distribution Calendar Year.
- (3) "Life Expectancy" means life expectancy as computed by use of the Single Life Table in Section 1.401(a)(9)-9 of the Treasury Regulations.
- (4) "Participant's Account Balance" means the sum of his Account balances under each Annuity Contract (except for any Pre-'87 Amount) as of the last valuation date in the calendar year immediately preceding the Distribution Calendar Year (valuation calendar year) increased by the amount of any contributions made and allocated, or forfeitures allocated, to the Account balance as of dates in the valuation calendar year after the valuation date and decreased by distributions made in the valuation calendar year after the valuation date. The Account balance for the valuation calendar year includes any amounts rolled over or transferred to the Plan either in the valuation calendar year or in the Distribution Calendar Year if distributed or transferred in the valuation calendar year.
- (5) "Pre-'87 Amount" means the portion (if any) of a Participant's Accounts equal to the difference between (A) and (B) below:
 - A. The sum of (I) and (II) below:
 - I. The Participant's Account Balance under this Plan on December 31, 1986;
 - and

II. Any additional amount transferred to this Plan from another Code Section 403(b) arrangement that represents the Participant's Account Balance under that arrangement on December 31, 1986.

B. Any amount distributed to the Participant in excess of the amount required under Sections 403(b)(10) and 401(a)(9) of the Code.

(6) "Required Beginning Date" means the date determined under (A) or (B) below, (whichever is later):

(A) April 1 of the calendar year following the calendar year in which the Participant attained age 70½, or

(B) April 1 of the calendar year following the calendar year in which the Participant retired.

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Section 11 Administration

11.1 In General

The Administrator shall be responsible for the operation and administration of the Plan in accordance with Sections 11.2, subject to the overall responsibility and authority of the Named Fiduciary described in Sections 11.4 if this Plan is subject to ERISA.

11.2 Powers and Duties of the Administrator

The Administrator shall have such powers and duties necessary to carry out the provisions of the Plan, and to discharge his duties thereunder, and without limiting the generality of the foregoing, shall have the following powers:

- (a) To adopt such policies, rules and regulations as he may deem necessary and proper to carry out the provisions of this Plan; which policies, rules and regulations may be changed from time to time in the light of experience; and which policies, rules and regulations shall be applied fairly and uniformly to all Participants;
- (b) To decide applicable questions, including the interpretation of Plan provisions, arising in the administration and application of this Plan, including questions of eligibility for participation and/or benefits and of the status and rights of Participants, Beneficiaries and any other persons thereunder;
- (c) To maintain, in conjunction with the Employer and Issuers, all necessary records for the proper administration of this Plan;
- (d) To receive from the Employer, Issuers and Participants such information as shall be necessary for the proper administration of this Plan;
- (e) To be responsible for the preparation and filing of all reports, returns and other documents required under ERISA (if applicable) or the Code;
- (f) To furnish each Participant and Beneficiary with such information and reports as may be required by law or by the terms of the Plan;
- (g) To file all reports and take such other actions as he shall deem necessary in order to comply fully with the reporting and disclosure requirements of ERISA (if applicable) and the Code and with any additional reporting and disclosure requirements imposed by applicable statutes or any regulations, including any federal and state tax withholding and reporting requirements not performed by Issuers;
- (h) To keep on file a copy of this Plan and each Annuity Contract, including any subsequent amendments thereto, and all annual reports for this Plan, for examination by Participants during reasonable business hours to the extent required by law, and, in addition, shall maintain adequate records of his actions in administering this Plan. A Participant shall not be entitled to receive records pertaining to any other Participant. The Administrator may, in his complete discretion, cause to be sent to the Participants other statements of their respective benefits; and
- (i) To employ agents and provide for such clerical, legal, accounting, advisory or other services as he deems necessary to perform his duties under this Plan. The Administrator shall be, to the extent permitted by law, fully protected in respect to any action taken or

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omitted by him in good faith resulting from reliance upon the advice or services of any such agents.

The decisions and determinations of the Administrator, including interpretations of Plan provisions, made in good faith upon any matter within the scope of his authority shall be conclusive and binding on all persons, and the Administrator shall act in a uniform and nondiscriminatory manner in carrying out his decisions thereunder. The Administrator shall have no power to add to, subtract from or modify any of the terms of this Plan, or to change or add to any benefits provided by this Plan, or to waive or fail to apply any requirements of eligibility under this Plan. The records of the Plan shall be conclusive and binding upon the Employer and all other persons having an interest under this Plan.

11.3 Fiduciaries

The Employer shall have the overall responsibility and authority to manage and control the operation and administration of the Plan, and shall be the Named Fiduciary described in Section 402 of ERISA if this Plan is subject to ERISA. The Employer may designate one or more persons to carry out its responsibilities under the Plan, including its duties as the Administrator, if the Employer is so designated in Section 1.3, and may allocate specific duties and responsibilities among fiduciaries. Any such designation or allocation shall be made in writing and the acceptance of such designation or allocation by the fiduciary shall also be in writing. However, the fiduciary responsible for determining whether an individual is an Eligible Employee pursuant to Section 2.12 shall be the Employer that employs that individual, and this responsibility may not be delegated to another fiduciary.

Each fiduciary shall discharge his respective duties with respect to the Plan solely in the interest of the Participants and Beneficiaries and with the care, skill, prudence and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims.

A fiduciary shall not be liable for an act or omission of another person in carrying out any fiduciary responsibility where such fiduciary responsibility is allocated to such other person by the Named Fiduciary except to the extent provided by law.

11.4 Information from Issuers

The Employer shall enter into an Information Sharing Agreement with each Issuer of each Annuity Contract for the exchange of any information regarding Employees, Participants and Annuity Contracts that is necessary to comply with the terms of the Plan and any applicable legal or regulatory requirements under the Code, ERISA or otherwise. The Employer shall be entitled to rely on the accuracy and completeness of all information supplied to him by an Issuer, unless the Employer knows or should have known that such information is erroneous.

11.5 Information from the Employer

The Employer shall promptly furnish the Administrator with all information necessary for him to perform his duties and responsibilities under this Plan, including information obtained from Issuers pursuant to Information Sharing Agreements. The Administrator shall be entitled to rely on the accuracy and completeness of all information supplied to him by the Employer, unless he knows or should have known that such information is erroneous.

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11.6 Claims Procedure

a) In General

The Administrator shall establish a fair and uniform procedure for reviewing and paying claims for benefits under this Plan. If the Plan is subject to ERISA, this procedure shall comply with Section 11.6(b) below:

b) ERISA Claims Procedure

If this Plan is subject to ERISA, all claims for benefits under this Plan shall be directed to the attention of the Administrator. The Administrator shall have 90 days after receipt of the claim within which to render a decision, and upon written notice to the claimant, may extend this period for an additional 90 days if there are special circumstances that require such an extension.

In the event that a claim is wholly or partially denied, the Administrator shall inform the claimant of the reason or reasons for the denial, the specific reference to any Plan provisions on which the denial was based, including any reasonable interpretations of such provisions as authorized in accordance with the provisions of Section 11.2, any additional information that may be necessary to perfect the claim with the reasons therefore, and the procedure for reviewing denied claims.

The Administrator shall have the right to interpret the provisions of the Plan in connection with any claim for benefits (or review after appeal) and such interpretation shall be binding as provided in Section 11.2.

In the event a claim is wholly or partially denied, the claimant or his representative shall have a reasonable opportunity to appeal to the Administrator for review thereof by requesting such review in writing to the Administrator.

The Administrator shall render a decision on review not later than 60 days after receipt of the request for review from the claimant unless special circumstances require extension, in which case the decision may, upon written notice to the claimant, be rendered within 120 days of receipt of the request for review.

The decision on the review shall be rendered in writing and shall include specific reasons with specific reference to the Plan provisions upon which it is based.

Section 12 General Provisions

12.1 Rights of Employees

The establishment of this Plan shall not be construed as conferring any right upon any Employee or any other person for a continuation of employment, nor shall it be construed as limiting in any way the right of the Employer to discharge any Employee or to treat him without regard to the effect that such treatment might have upon him as a Participant under this Plan.

12.2 Rights of Participants

The rights of Participants and Beneficiaries to receive any benefits under this Plan, and the amount of any such benefits, shall be determined in accordance with the terms of this Plan.

Benefits shall not be paid under this Plan unless and until all information, notices and papers necessary to process the benefit have been received by the Administrator and the Issuers of the affected Annuity Contracts.

12.3 Limitation of Liability

The payment of any benefits under this Plan is limited to the amount that can be provided by the assets of the Plan in accordance with the terms of the Annuity Contracts. The Employer shall not have any liability in excess of this except as may be provided by ERISA, if applicable.

12.4 Payment of Plan Benefits

The payment of the benefits provided by this Plan shall be made by the Issuers under the terms of the Annuity Contract(s). Any Annuity Contract distributed by the Plan must be nontransferable.

12.5 Conflict with Annuity Contracts

In the event of any conflict between the terms of this Plan and the terms of any Annuity Contract referred to herein, the Plan provisions shall control as to the benefits and rights of Participants and Beneficiaries under the Plan, but shall not be deemed to amend the Annuity Contract or to deprive the Issuer of any of its rights under the Annuity Contract. However, the terms of any Annuity Contract purchased by the Plan and distributed to a Participant or Beneficiary must comply with the provisions of the Plan.

12.6 Nontransferrability

No amount held under an Annuity Contract on behalf of a Participant or Beneficiary under this Plan may be voluntarily or involuntarily assigned (either at law or in equity) to any person other than the Issuer of that Annuity Contract, except as permitted by law.

12.7 Non-Alienation of Benefits

No amount payable under this Plan with respect to a Participant or Beneficiary may be alienated or

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be subject to attachment, garnishment, levy, execution or other legal or equitable process to subject the same to the payment of any claim against the payee, except to the extent permitted by law or by Section 12.8.

12.8 Exclusive Benefit of Participants

Plan assets shall be held and administered for the exclusive purpose of providing benefits to Participants and Beneficiaries (and defraying reasonable expenses of the Plan) except as provided in this Section 12.8. Except as permitted by law, Plan assets shall be used for or diverted to other purposes only under the following circumstances:

Qualified Domestic Relations Order

Nothing in this Section 12.8 shall prohibit the Plan from making a distribution to an alternate payee pursuant to a qualified domestic relations order, as described in Section 412(p) of the Code.

Mistake Of Fact

Any contribution made to the Plan due to a mistake of fact shall be returned to the Employer within one year after the date of the contribution, if the Employer so requests in writing to the Administrator within an administratively reasonable time before the expiration of that one-year period. The amount returned to the Employer shall be reduced by any investment losses and contract charges attributable to the mistaken contribution but shall not be increased by investment gains.

Certain Benefit Offsets

To the extent permitted by, and subject to the conditions of, Code Section 401(a)(13), in conjunction with a court judgment, order or decree, or a settlement agreement to which the U.S. Department of Labor or the Pension Benefit Guaranty Corporation is a party, issued or entered into on or after August 5, 1997, as such judgments, orders, decrees and agreements are described in that Code Section, the Plan may offset all or part of the amount ordered or required to be paid to the Plan by a Participant against the Participant's benefits under the Plan.

IRS Levy

The Administrator or an Issuer may pay any amount that is lawfully demanded under a levy issued by the Internal Revenue Service.

12.9 Separability of Provisions

If any provision of this Plan is found to be invalid, the remainder of the provisions shall remain in full force and effect.

Section 13 Amendment and Termination

13.1 Amendment

Although the Employer expects the Plan as adopted to remain in effect indefinitely, the Employer reserves the right to amend the Plan, when and as it deems advisable, without the consent of any Participant, Terminated Participant or Beneficiary (including alternate payees as defined in Section 414(p) of the Code).

Any amendment to this Plan shall be accomplished by execution of a written instrument in the name of the Employer by an officer or officers of the Employer authorized to do so by a written resolution of the Employer's Board of Directors or similar governing Board, or an authorized Committee of that Board.

In no event shall any amendment to this Plan:

- a) Decrease a Participant's Accounts;
- b) Deprive a Participant of his nonforfeitable right to the portion of his Accounts attributable to Salary Reduction Contributions;
- c) Eliminate an optional form of distribution except as permitted by Section 411(d)(6) of the Code and Section 204(g) of ERISA (if applicable);
- d) Change the duties, liabilities or responsibilities of the Administrator of the Named or other Fiduciaries without their written consent; or
- e) Deprive an Issuer of any of its rights, exemptions and immunities with respect to any Annuity Contract.

13.2 Termination of Plan by Employer

It is intended by the Employer that the Plan constitute a permanent plan for providing benefits for Employees. However, the Employer reserves the right to terminate the Plan in whole or in part at anytime, by an amendment to the Plan in accordance with Section 13.1. Thereafter, no Participant affected by such termination shall accrue additional benefits hereunder. Upon termination or partial termination of the Plan, the rights of all affected Participants to benefits accrued to the date of such termination, to the extent then funded, are nonforfeitable.

This Plan may be terminated only if the following conditions are satisfied in accordance with Section 1.403(b)-10(a) of the Treasury Regulations:

- a) All Plan assets must be distributed to all Participants and Beneficiaries as soon as administratively practicable after the termination of the Plan; and
- b) Except as permitted by Treasury Regulations, the Employer may not contribute to another plan described in Section 403(b) of the Code during the period beginning on the Plan's termination date and ending twelve months after all Plan assets have been distributed.

If this Plan is terminated, the funds of this Plan that are then allocated to individual Participants or Beneficiaries, shall remain allocated to such persons, and any funds that have not been allocated shall be allocated according to the terms of the Plan as it exists as of the date of termination until distributed in accordance with the provisions of the Plan.

There shall be no liability or obligation on the part of the Employer to make any further contributions under this Plan toward the provision of benefits in the event of termination of this Plan, except as may be required by ERISA (if applicable).

13.3 Merger, Consolidation or Transfer of Assets

This Plan shall not be merged or consolidated with, nor shall any assets or liabilities of this Plan be transferred to, any other retirement plan unless:

- (a) Immediately after the merger, consolidation or transfer each Participant in this Plan would receive a benefit equal to or greater than the benefit he would have been entitled to receive if this Plan had terminated immediately before the merger, consolidation or transfer; and
- (b) Resolutions in writing of the Board of Directors of the Employer, or of any new or successor Employer of the affected Participants, shall authorize such transfer of assets with such resolutions to include, in the case of such new or successor Employer, an assumption of liabilities with respect to the inclusion of such Participants in the new Employer's plan; and
- (c) An instrument in writing executed in the name of the Employer by an officer or officers duly authorized to execute such instrument, or of any new or successor Employer of the affected Participants, shall authorize such transfer of assets with such instrument to include, in the case of such new or successor Employer, an assumption of liabilities with respect to the inclusion of such Participants in the new Employer's plan.

For the purposes of this Section 13.3, the amount of benefit each Participant is entitled to receive immediately before a merger shall be the benefit provided by the funds allocated to each Participant under the provisions of Section 13.2 and the Annuity Contracts, determined as if this Plan had terminated on the day immediately preceding a merger.

The amount of benefit each Participant is entitled to receive immediately after a merger shall be determined under the applicable provisions of the merged plan on the assumption that the merged plan terminated the day after the merger and the funds held by the merged plan are allocated to Participants in accordance with the provisions of Section 13.2 of this Plan.

IN WITNESS WHEREOF, the Employer has caused this Plan to be executed by an authorized individual as of this 22 day of December in the year 2008 to be effective as of January 1, 2009.

The Employer hereby represents that it is (i) a non-church organization described in Section 501(c)(3) of the Code, (ii) a church or qualified church-controlled organization described in Section 3121(w)(3) of the Code, or (iii) a public educational institution.

For The Employer, By: _____

(signature of authorized officer)

Title: _____

Brown County Executive

Appendix A

Part I:

Enter the following information for each Annuity Contract that is permitted to make and receive Rollovers and Transfers, and to accept Salary Reduction Contributions, under this Plan:

Name of Issuer: Mutual of America
Address: _____
Contract Number: _____

Name of Issuer: WEA Tax Shelter Annuities
Address: _____
Contract Number: _____

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Appendix A

Part II:

Enter the following information for each Annuity Contract that is permitted to make and receive Rollovers and Transfers, but may not accept Salary Reduction Contributions, under this Plan:

Name of Issuer: _____
 Address: _____
 Contract Number: _____

Name of Issuer: _____
 Address: _____
 Contract Number: _____

Name of Issuer: _____
 Address: _____
 Contract Number: _____

Name of Issuer: _____
 Address: _____
 Contract Number: _____

Name of Issuer: _____
 Address: _____
 Contract Number: _____

Name of Issuer: _____
 Address: _____
 Contract Number: _____

Name of Issuer: _____
 Address: _____
 Contract Number: _____

Name of Issuer: _____
 Address: _____
 Contract Number: _____

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Appendix A**Part III:**

Enter the following information for each Annuity Contract that is permitted to make Rollovers and Transfers, but may not receive Rollovers, Transfers or Salary Reduction Contributions after 12/31/2011, under this Plan:

Name of Issuer: Capital Bank
Address: _____
Contract Number: _____

Name of Issuer: Pershing
Address: _____
Contract Number: _____

Name of Issuer: Smith Barney
Address: _____
Contract Number: _____

Name of Issuer: Reliastar Life Insurance Company
Address: _____
Contract Number: _____

Name of Issuer: Ameriprise Financial
Address: _____
Contract Number: _____

Name of Issuer: AXA Equitable
Address: _____
Contract Number: _____

Name of Issuer: Waddell & Reed Financial Services
Address: _____
Contract Number: _____

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